

**EXHIBIT D**

**OFFICIAL STATEMENT**

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**Louisville/Jefferson County Metro Government, Kentucky  
Variable Rate Demand Educational Facilities Revenue Bonds, Series 2007  
(Louisville Presbyterian Theological Seminary Project)**

## OFFICIAL STATEMENT

NEW ISSUE – BOOK ENTRY ONLY

*In the opinion of Rubin & Hays, Bond Counsel, under existing law and conditioned upon compliance with the tax covenants described herein, interest on the Bonds (hereinafter defined) is excludable from gross income under Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"), for federal income tax purposes. In the opinion of Bond Counsel, under existing law, interest on the Bonds is exempt from taxation in the Commonwealth of Kentucky, as described herein, and is not treated as a preference item to be included in computing the alternative minimum taxable income for purposes of the federal Alternative Minimum Tax imposed with respect to individuals and corporations. See "Tax Matters" for further information concerning tax issues with respect to ownership of the Bonds.*

**\$5,000,000**

**LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT, KENTUCKY  
VARIABLE RATE DEMAND EDUCATIONAL FACILITIES  
REVENUE BONDS, SERIES 2007  
(Louisville Presbyterian Theological Seminary Project)**

Dated: Date of Initial Delivery

Due: September 1, 2025

The Louisville/Jefferson County Metro Government, Kentucky (the "Issuer") will issue its Variable Rate Demand Educational Facilities Revenue Bonds, Series 2007 (Louisville Presbyterian Theological Seminary Project) (the "Bonds") as fully registered bonds in minimum denominations of not less than \$100,000 and in any integral multiple of \$5,000 in excess thereof, while in the Weekly Interest Rate period (as hereinafter defined) and not less than \$5,000 or any integral multiple thereof while in the Fixed Rate Period (hereinafter defined). The Bonds are being issued pursuant to the terms of a Trust Indenture dated as of August 1, 2005 (the "Indenture") between the Issuer and U.S. Bank National Association, as trustee (the "Trustee").

The offering price of the Bonds is 100% of the principal amount thereof. The interest rate on the Bonds will be the Weekly Interest Rate Period, which will be adjusted weekly by the Remarketing Agent, initially, NatCity Investments, Inc. The interest rate on the Bonds will continue to be the Weekly Interest Rate (hereinafter defined) unless and until the interest rate on the Bonds is converted to another Interest Period or a Fixed Interest Rate. (See "THE BONDS - Conversion from Weekly Rate Period to a New Computation Period" herein).

The Bonds will be issued initially under a book-entry only system, registered in the name of CEDE & CO., as registered bondholder and nominee for the Depository Trust Company ("DTC"). DTC will act as securities depository for the Bonds. Individual purchasers of Book-Entry Interests in the Bonds will not receive certificates representing their interest in the Bonds. So long as CEDE & CO., as nominee of DTC, is the registered owner of the Bonds, references herein to the Holders, bondholders or registered owners shall mean CEDE & CO., rather than the owners of Book-Entry Interests with respect to the Bonds, except for the purpose of giving certain bondholder consents. See "THE BONDS" herein.

**PAYMENT OF PRINCIPAL AND INTEREST IS  
SECURED BY AN IRREVOCABLE DIRECT PAY  
LETTER OF CREDIT ISSUED BY  
NATIONAL CITY BANK**

The Bonds are subject to optional, extraordinary optional, and other mandatory redemption as described herein. (See "THE BONDS" - Redemption Prior to Maturity" herein).

THE BONDS AND THE INTEREST AND PREMIUM, IF ANY, THEREON ARE PAYABLE SOLELY FROM PAYMENTS TO BE MADE BY THE BORROWER (AS DEFINED HEREIN) UNDER THE LOAN AGREEMENT (AS DEFINED HEREIN) AND THE OTHER SOURCES PROVIDED IN THE INDENTURE. THE BONDS ARE NOT A GENERAL OR MORAL OBLIGATION, DEBT OR LIABILITY OF THE ISSUER, THE COMMONWEALTH OF KENTUCKY (THE "STATE") OR ANY POLITICAL SUBDIVISION THEREOF WITHIN THE MEANING OF THE CONSTITUTION OR STATUTES OF THE STATE, OR A PLEDGE OF THE FAITH AND CREDIT OF THE ISSUER, THE STATE OR ANY POLITICAL SUBDIVISION THEREOF. THE BONDS DO NOT GRANT TO THE HOLDERS OR BENEFICIAL OWNERS THEREOF THE RIGHT TO HAVE THE ISSUER, THE KENTUCKY GENERAL ASSEMBLY OR ANY POLITICAL SUBDIVISION OF THE STATE LEVY ANY TAXES OR APPROPRIATE ANY FUNDS FOR THE PAYMENT THEREOF OR THE INTEREST OR PREMIUM, IF ANY, THEREON, AND DO NOT CONSTITUTE OR GIVE RISE TO ANY PECUNIARY LIABILITY OF THE ISSUER, THE STATE OR ANY POLITICAL SUBDIVISION THEREOF, AND NEITHER THE ISSUER, THE STATE, NOR ANY POLITICAL SUBDIVISION THEREOF SHALL BE LIABLE FOR THE PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THE BONDS. THE ISSUER HAS NO TAXING POWER.

The Bonds are being offered on the basis of the financial strength of National City Bank as the Letter of Credit Bank (the "Bank") and not on the financial strength of Louisville Presbyterian Theological Seminary (the "Borrower") or any other security. This Official Statement does not describe the financial condition of the Borrower. The Bonds are subject to acceleration of maturity upon the occurrence of a default by the Borrower under the Reimbursement Agreement securing the Letter of Credit (as hereinafter defined). Neither the Issuer nor any of its officers have reviewed the credit worthiness of the Borrower or the Project, and the issuance of the Bonds should not be deemed as such.

The Borrower has agreed in the Reimbursement Agreement to provide certain financial information on an annual basis only to the Bank. The Bonds are exempt from the Securities and Exchange Commission's rules regarding continuing disclosure. Accordingly, except as described above, the Issuer and the Borrower are not obligated to provide financial or operating information with respect to the Issuer, the Borrower or the Bonds after the date hereof.

The Bonds are being offered only to accredited investors, as defined in Rule 501(a) of Regulation D promulgated by the Securities and Exchange Commission on a "best efforts" basis with a minimum required investment of \$100,000, subject to the approving opinion of Rubin & Hays, Bond Counsel, Louisville, Kentucky. Certain legal matters will be passed upon for the Borrower by its counsel, Blackburn Hundley & Domene, LLP, Louisville, Kentucky, for the Underwriter and Remarketing Agent by its counsel, Charles H. Spain, Jr., Esq., Cleveland, Ohio, and for the Bank by its counsel, Charles H. Spain, Jr., Esq., Cleveland, Ohio.

**NATCITY INVESTMENTS, INC.  
UNDERWRITER**

The date of the Official Statement is August \_\_, 2005

**NATCITY INVESTMENTS, INC. IS THE EXCLUSIVE  
UNDERWRITER FOR THE  
VARIABLE RATE DEMAND EDUCATIONAL FACILITIES  
REVENUE BONDS DESCRIBED HEREIN**

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## **OFFICIAL STATEMENT**

**\$5,000,000**

**LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT, KENTUCKY  
VARIABLE RATE DEMAND EDUCATIONAL FACILITIES  
REVENUE BONDS, SERIES 2007  
(LOUISVILLE PRESBYTERIAN THEOLOGICAL SEMINARY PROJECT)**

This Official Statement does not constitute an offering of any security, other than the original offering of the \$5,000,000 of Louisville/Jefferson County Metro Government, Kentucky Variable Rate Demand Educational Facilities Revenue Bonds, Series 2007 (Louisville Presbyterian Theological Seminary Project) (the "Bonds") identified on the cover hereof. No dealer, broker, salesman or other person has been authorized by the Louisville/Jefferson County Metro Government, Kentucky (the "Issuer"), Louisville Presbyterian Theological Seminary (the "Borrower"), National City Bank (as issuer of the Irrevocable Direct Pay Letter of Credit, the "Bank"), NatCity Investments, Inc. (as Underwriter, the "Underwriter") or NatCity Investments, Inc. (as Remarketing Agent, the "Remarketing Agent") to give any information or to make any representation other than those made herein. Any such other information or representation must not be relied upon as having been authorized. This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy and there shall not be any sale of the Bonds by any person in any jurisdiction in which it is unlawful to make such offer, solicitation, or sale. The information and expressions of opinions herein are subject to change without notice and neither the delivery of this Official Statement nor the sale of any of the Bonds shall, under any circumstances, create any implication that the information herein is correct as of any time subsequent to the date hereof, or in the case of the information included in Appendix A regarding the Bank, as of any time subsequent to the date of such information.

This Official Statement is being furnished to selected institutional investors on a confidential basis and with the express understanding that it shall serve solely the purpose of allowing such investors to consider the purchase of all or a portion of the Bonds. Reference should be made to the Loan Agreement, the Indenture, the Letter of Credit and other documents prepared or to be prepared in connection with the issuance and sale of the Bonds for information regarding the rights and obligations of the parties thereto. Forms of the documents mentioned above are available from the offices of NatCity Investments, Inc., 1965 East Sixth Street, LOC 3095, Cleveland, Ohio 44114.

Information herein has been obtained from the Borrower and the Bank and other sources believed to be reliable, but it is not guaranteed as to accuracy or completeness by, and is not to be construed as a representation by, the Underwriter or the Issuer.

Upon issuance, the Bonds will not be registered by the Issuer under the Securities Act of 1933, as amended, or any state securities law and will not be listed on any stock or other securities exchange. Neither the Securities and Exchange Commission nor any other federal, state, municipal, or other governmental entity or agency shall have passed upon the accuracy or adequacy of this Official Statement nor, (except to the extent described herein) has the Issuer approved the Bonds for sale. This Official Statement includes the front cover page and other materials preceding this page.

This Official Statement has been prepared in connection with the original offering for sale of the Bonds.

## INTRODUCTORY STATEMENT

This Official Statement, including the Cover Page and Appendices attached hereto, is provided to furnish information in connection with the issuance by the Louisville/Jefferson County Metro Government, Kentucky (the "Issuer") of \$5,000,000 aggregate principal amount of Variable Rate Demand Educational Facilities Revenue Bonds, Series 2007 (Louisville Presbyterian Theological Seminary Project) (the "Bonds"). The Bonds will be issued pursuant to a Trust Indenture to be dated as of August 1, 2007 (the "Indenture") between the Issuer and U.S. Bank National Association (the "Trustee").

The Bonds are being issued by the Issuer to provide funds to finance the Project, as defined in the Indenture (the "Project"). Concurrently with the issuance of the Bonds, Louisville Presbyterian Theological Seminary (the "Borrower") and the Issuer will enter into a Loan Agreement dated as of August 1, 2007 (the "Loan Agreement") under which the Issuer will loan the proceeds of the Bonds to the Borrower. The terms of the Loan Agreement will require the Borrower to make loan payments sufficient to pay the principal of, premium, if any, and interest on the Bonds (the "Bond Service Charges") as and when due. The Issuer will pledge and assign to the Trustee, for the security of the holders of the Bonds, substantially all of its rights and interests in the Loan Agreement.

The Bonds will be further secured by an irrevocable direct-pay Letter of Credit (the "Letter of Credit") issued by National City Bank (the "Bank") in an aggregate amount equal to the full principal amount of the Bonds and 110 days' interest on the Bonds at a maximum interest rate of 9% per annum (the "Maximum Interest Rate"). The Trustee shall draw under the Letter of Credit up to an amount sufficient to pay (a) principal of the Bonds when due, whether at stated maturity or upon redemption or acceleration, (b) the purchase price of the Bonds delivered to U.S. Bank National Association as tender agent (the "Tender Agent") and not remarketed by NatCity Investments, Inc., as remarketing agent (the "Remarketing Agent"), and (c) up to 110 days' interest accrued on the Bonds at the Maximum Interest Rate. The Letter of Credit expires at the close of business on **September 16, 2012** (the "Stated Expiration Date"), unless extended in accordance with the terms thereof. See "THE LETTER OF CREDIT" herein.

The Borrower may, pursuant to the Indenture, deliver to the Trustee an alternate letter of credit (herein an "Alternate Letter of Credit") in substitution for the Letter of Credit, the terms of which must be in all material respects (except as to expiration date) the same as the Letter of Credit. The Bonds are subject to mandatory tender for purchase on the Interest Payment Date next preceding the expiration date of the Letter of Credit. The Bonds are also subject to mandatory tender for purchase (subject to a Bondholder's election to retain the Bonds) upon replacement of the Letter of Credit with an Alternate Letter of Credit or upon conversion of any Interest Rate Period to a different Interest Rate Period. See "THE BONDS - Mandatory Purchase Upon Expiration of Letter of Credit or Conversion of Interest Rate Period or Replacement of Letter of Credit with an Alternate Letter of Credit."

To provide for the issuance of the Letter of Credit, the Borrower will enter into a reimbursement agreement with the Bank, to be dated as of August 1, 2007 (hereinafter referred to as the "Reimbursement Agreement"), pursuant to which the Borrower will be obligated to reimburse the Bank for all drawings made under the Letter of Credit.

**Because the Reimbursement Agreement contains references to security documents and financial covenants affecting the Borrower not summarized in this Official Statement, prospective investors will not be able to evaluate the likelihood of the occurrence of an Event of Default under the Reimbursement Agreement and the corresponding possibility that the principal payments on the Bonds would be accelerated.**

THE BONDS AND THE INTEREST AND PREMIUM, IF ANY, THEREON ARE PAYABLE SOLELY FROM PAYMENTS TO BE MADE BY THE BORROWER (AS DEFINED HEREIN) UNDER THE LOAN AGREEMENT AND THE OTHER SOURCES PROVIDED IN THE INDENTURE. THE BONDS ARE NOT A GENERAL OR MORAL OBLIGATION, DEBT OR LIABILITY OF THE ISSUER, THE COMMONWEALTH OF KENTUCKY OR ANY POLITICAL SUBDIVISION THEREOF WITHIN THE MEANING

OF THE CONSTITUTION OR STATUTES OF THE STATE, OR A PLEDGE OF THE FAITH AND CREDIT OF THE ISSUER, THE STATE OR ANY POLITICAL SUBDIVISION THEREOF. THE BONDS DO NOT GRANT TO THE HOLDERS OR BENEFICIAL OWNERS THEREOF THE RIGHT TO HAVE THE ISSUER, THE KENTUCKY GENERAL ASSEMBLY OR ANY POLITICAL SUBDIVISION OF THE STATE LEVY ANY TAXES OR APPROPRIATE ANY FUNDS FOR THE PAYMENT THEREOF OR THE INTEREST OR PREMIUM, IF ANY, THEREON, AND DO NOT CONSTITUTE OR GIVE RISE TO ANY PECUNIARY LIABILITY OF THE ISSUER, THE STATE OR ANY POLITICAL SUBDIVISION THEREOF, AND NEITHER THE ISSUER, THE STATE, NOR ANY POLITICAL SUBDIVISION THEREOF SHALL BE LIABLE FOR THE PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THE BONDS.

The Issuer has not participated in the preparation or review of this Official Statement.

Information with respect to the Bank is set forth in Appendix A hereto. Brief descriptions and summaries of the Bonds, the Loan Agreement, the Indenture, the Letter of Credit, and the Reimbursement Agreement are included in this Official Statement. Those descriptions and summaries do not purport to be comprehensive or definitive. All references herein to the Loan Agreement, Indenture, Letter of Credit and Reimbursement Agreement are qualified by reference to those documents in their entirety, and all references to the Bonds are qualified by reference to the definitive form thereof included in the Indenture and the information with respect to the Bonds included in the Loan Agreement and Indenture.

All capitalized terms not defined herein shall have the meanings set forth in Appendix C hereto.

#### THE ISSUER

The Issuer, a political subdivision of the Commonwealth of Kentucky, has authorized the issuance of the Bonds pursuant to: (i) the provisions of the Industrial Buildings for Cities and Counties Act, Sections 103.200 to 103.285 of the Kentucky Revised Statutes, as enacted and amended from time to time, and (ii) by the municipal order adopted on August \_\_\_, 2007 by the Issuer.

THE BONDS AND THE INTEREST PAYABLE THEREON ARE LIMITED OBLIGATIONS OF THE ISSUER AND DO NOT REPRESENT OR CONSTITUTE A GENERAL OBLIGATION OF THE ISSUER, THE COMMONWEALTH OF KENTUCKY OR ANY POLITICAL SUBDIVISION OR TAXING AUTHORITY THEREOF OR A PLEDGE OF THE FAITH AND CREDIT OR TAXING POWER OF THE ISSUER, THE COMMONWEALTH OF KENTUCKY OR ANY POLITICAL SUBDIVISION OR TAXING AUTHORITY THEREOF. THE BONDS AND THE INTEREST PAYABLE THEREON ARE PAYABLE SOLELY FROM THE REVENUES PLEDGED THEREFOR UNDER THE INDENTURE AND PAYMENTS UNDER THE LETTER OF CREDIT. NEITHER THE FAITH AND THE CREDIT NOR THE TAXING POWER OF THE ISSUER, THE COMMONWEALTH OF KENTUCKY OR ANY POLITICAL SUBDIVISION OR TAXING AUTHORITY THEREOF IS PLEDGED AS PAYMENT OF THE PRINCIPAL OF OR THE INTEREST ON THE BONDS.

No covenant or agreement contained in the Indenture, the Loan Agreement or the Bonds shall be deemed to be a covenant or agreement of any member, officer, director, agent, attorney or employee of the Issuer, nor shall any member, officer, director, agent, attorney or employee be liable personally on the Bonds or any other of the aforementioned documents. Moreover, the Issuer has relied on representations of the Borrower regarding the Project (defined below) and will not independently monitor the Project.

Except for information concerning the Issuer in the sections of this Official Statement captioned "THE ISSUER," none of the information in this Official Statement has been supplied or verified by the Issuer and the Issuer makes no representation or warranty, express or implied, as to the accuracy or completeness of such information.

## THE PROJECT AND USE OF PROCEEDS

### **The Project**

The Project includes the construction and equipping of educational facilities to be operated by the Borrower.

## THE BONDS

### **Payment of Principal and Interest**

The Bonds will be dated as of the date of initial delivery thereof and will mature on September 1, 2025. The Bonds will bear interest from the date of their delivery, payable on the first Business Day (during the Weekly Interest Rate Period) of each September, December, March and June, commencing December 1, 2007 (any such day on which interest is payable being an "Interest Payment Date") at the interest rates described below. During a Fixed Rate Period, interest is payable on the first day of each September and March.

The Bonds originally will be issued solely in book-entry form to DTC or its nominee, CEDE & CO., to be held in DTC's book-entry only system. So long as the Bonds are held in the book-entry only system, DTC (or a successor securities depository) or its nominee will be the registered owner or holder of the Bonds for all purposes of the Indenture, the Bonds and this Official Statement, except for the purpose of giving certain consents. See "Book-Entry Only System" below.

### **Book-Entry Only System**

The Bonds initially will be issued solely in book-entry form to be held under DTC's book-entry only system. One fully registered Bond will be registered in the name of CEDE & CO., as nominee for DTC.

DTC advises that it is a limited purpose trust company organized under the laws of the State of New York, a member of the Federal Reserve System, and a "clearing corporation" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934, as amended. DTC was created to hold securities of its participants, (the "DTC Participants") and to facilitate the clearance and settlement of securities transactions among DTC Participants in such securities through electronic book-entry changes in accounts of the DTC Participants, thereby eliminating the need for physical movement of securities certificates. DTC Participants include securities brokers and dealers, banks, trust companies, clearing corporations and certain other organizations, some of whom (and or their representatives) own DTC. Access to the DTC book-entry only system is also available to others such as banks, brokers, dealers and trust companies that clear through or maintain a custodial relationship with a DTC Participant, either directly or indirectly (the "Indirect Participants").

DTC Participants purchasing Book-Entry Interests (as defined below) in the Bonds will not receive Bond certificates. Each DTC Participant will receive a credit balance in the records of DTC in the amount of such DTC Participant's interest in the Bonds, which will be confirmed in accordance with DTC's standard procedures. The ownership interest of each actual purchaser of a book-entry interest in a Bond (the "Book-Entry Interest") will be recorded through the records of the DTC Participant or through the records of the Indirect Participant. Owners of Book-Entry Interests will receive from the DTC Participant or Indirect Participant a written confirmation of their purchase providing details of the Book-Entry Interests acquired. Transfers of Book-Entry Interests will be accomplished by



book entries made by the DTC and by the DTC Participants or Indirect Participants who act on behalf of the owners of Book-Entry Interests.

So long as CEDE & CO. is the registered owner of the Bonds, as nominee of DTC, references herein to the Holders or registered owners of the Bonds shall mean CEDE & CO. and shall not mean the owners of Book-Entry Interests (except for the purpose of giving certain consents as described below). Under the Indenture, payments made by the Trustee to DTC or its nominee shall satisfy the Issuer's obligations under the Indenture and the Borrower's obligations under the Loan Agreement to the extent of the payments so made. Owners of Book-Entry Interests will not be or be considered by the Issuer or the Trustee to be, and will not have any rights as, Holders under the Indenture (except for such consent purposes).

NEITHER THE ISSUER, THE BORROWER NOR THE TRUSTEE WILL HAVE ANY RESPONSIBILITY OR OBLIGATION TO ANY DTC PARTICIPANT, INDIRECT PARTICIPANT OR ANY OWNER OF A BOOK-ENTRY INTEREST OR ANY OTHER PERSON NOT SHOWN ON THE REGISTRATION BOOKS OF THE TRUSTEE AS BEING A HOLDER WITH RESPECT TO: (1) THE BONDS; (2) THE ACCURACY OF ANY RECORDS MAINTAINED BY DTC OR ANY DTC PARTICIPANT OR INDIRECT PARTICIPANT; (3) THE PAYMENT BY DTC OR ANY DTC PARTICIPANT OR INDIRECT PARTICIPANT OF ANY AMOUNT DUE TO ANY OWNER OF A BOOK-ENTRY INTEREST IN RESPECT OF THE PRINCIPAL OR REDEMPTION PRICE OR INTEREST ON THE BONDS; (4) THE DELIVERY BY DTC OR ANY DTC PARTICIPANT OR INDIRECT PARTICIPANT OF ANY NOTICE TO ANY OWNER OF A BOOK-ENTRY INTEREST WHICH IS REQUIRED OR PERMITTED UNDER THE TERMS OF THE BOND INDENTURE TO BE GIVEN TO HOLDERS; (5) THE SELECTION OF THE OWNERS OF A BOOK-ENTRY INTEREST TO RECEIVE PAYMENT IN THE EVENT OF ANY PARTIAL REDEMPTION OF THE BONDS; OR (6) ANY CONSENT GIVEN OR OTHER ACTION TAKEN BY DTC AS HOLDER.

Principal, redemption price and interest payments on the Bonds will be made to DTC or its nominee, as Holder of the Bonds. Disbursal of such payments to the owners of Book-Entry Interests is the responsibility of DTC, the DTC Participants and, where appropriate, Indirect Participants. Upon receipt of moneys, DTC's current practice is to credit the accounts of the DTC Participants immediately in accordance with their respective holdings shown on the records of DTC. Payments by DTC Participants and Indirect Participants to owners of Book-Entry Interests will be governed by standing instructions and customary practices, as is now the case with municipal securities held for accounts of customers in bearer form or registered in "street name," and will be the responsibility of such DTC Participant or Indirect Participant and not of DTC, the Borrower, the Trustee or the Issuer, subject to any statutory and regulatory requirements as may be in effect from time to time.

DTC Participants and Indirect Participants carry the "position" of the ultimate Book-Entry Interest Owner on their records, and will be responsible for providing information to the ultimate Book-Entry Interest owner as to the Bonds in which the Book-Entry Interest is held, debt service payments received, and other information. Each person for whom a DTC Participant or Indirect Participant acquires an interest in the Bonds, as nominee, may desire to make arrangements with such DTC Participant or Indirect Participant to receive a credit balance in the records of such DTC Participant or Indirect Participant, to have all notices of redemption or other communications to or by DTC which may affect such persons forwarded in writing by such DTC Participant or Indirect Participant, and to have notification made of all debt service payments.

Purchases, transfers and sales of Book-Entry Interest by the ultimate Book-Entry Interest owners may be made through book-entries made by DTC Participants or Indirect Participants or others who act for the ultimate Book-Entry Interest owner. The Issuer and the Trustee have no role in those purchases, transfers or sales.

Owners of Book-Entry Interests may be charged a sum sufficient to cover any tax, fee, or other governmental charge that may be imposed in relation to any transfer or exchange of a Book-Entry Interest.

The Issuer and the Trustee will recognize and treat DTC (or any successor securities depository) or its nominee as the Holder for all purposes, including payment of debt service, notices and enforcement of remedies. Crediting of debt service payments, and transmittal of notices and other communications, by DTC to DTC Participants, by DTC Participants to Indirect Participants, and by DTC Participants and Indirect Participants to the ultimate Book-Entry Interest owners, are the responsibility of those persons and will be handled by arrangements among them and are not the responsibility of the Trustee or the Issuer.

The Trustee and the Issuer, so long as a book-entry system is used for the Bonds, will send any notice of redemption and any other notices required by the Indenture to be sent to the Holders (except notice requesting consent of Holders) only to DTC (or such successor securities depository) or its nominee. Any failure of DTC to advise any DTC Participant, or of any DTC Participant or Indirect Participant to notify the Book-Entry Interest owner, of any such notice and its content or effect will not affect the validity of the redemption of the Bonds called for redemption, the amendment or supplement of the Indenture, or any other action premised on that notice. In the event of a call for redemption, the Trustee's notification to DTC will initiate DTC's standard call process, and, in the event of a partial call, its lottery process by which the call will be randomly allocated to DTC Participants holding positions in the Bonds. When DTC and DTC Participants allocate the call for redemption, the owners of Book-Entry Interest that have been called will be notified by the Participant or other person responsible for maintaining the records of those interests and subsequently credited by that person with the proceeds from redemption once the Bonds are redeemed.

DTC advises that neither DTC nor its nominee (CEDE & Co.) will provide any consent requested of Holders of Bonds pursuant to the Indenture. Rather, DTC will mail an Omnibus Proxy to the Issuer which assigns CEDE & CO.'s voting rights to the Participants having the Bonds credited to their accounts as of the record date for mailing of requests for consents (who are identified in a list attached to the Omnibus Proxy). The Indenture requires the Issuer to provide the Omnibus Proxy to the Trustee, which shall then treat the Participants as Holders of Bonds for purposes of obtaining such consents.

The Issuer cannot and does not give any assurances that DTC, DTC Participants or others will distribute payments of debt service on the Bonds made to DTC or its nominee as the registered owners, or any redemption or other notices, to the Book-Entry Interest owners, or that they will do so on a timely basis, or that DTC will serve and act in the manner described in this Official Statement.

The Borrower understand that the current "Rules" applicable to DTC are on file with the Securities and Exchange Commission, and that the current "Procedures" of DTC to be followed in dealing with DTC Participants are on file with DTC.

#### **Revision of Book-Entry System; Replacement of Bond**

The Indenture provides for the issuance and delivery of fully registered Bonds (the "Replacement Bonds") directly to owners other than DTC only in the event that DTC determines not to continue to act as securities depository for the Bonds.

Upon occurrence of such event, the Issuer or the Trustee may attempt to establish a securities depository book-entry relationship with another securities depository. If the Issuer or the Trustee does not do so, or are unable to do so, and after the Trustee has notified the owners of Book-Entry Interests with respect to the Bonds by appropriate notice to DTC, the Trustee will authenticate and deliver Replacement Bonds in the then applicable authorized denomination or any integral multiple thereof to the assignees of the Depository or its nominee. If the event is not the result of Issuer action or inaction, such withdrawal, authentication and delivery will be at the expense of (including printing and delivery costs) any persons requesting such issuance.

In the event that the book-entry only system is discontinued, the principal or redemption price of and interest on the Bonds will be payable in the manner described above in the Indenture, and the provisions discussed below with respect to transfer and exchange of the Bonds would apply.

## **Nonpresentment of Bonds**

If any Bonds are not presented for payment on the date fixed for their redemption, or if any Bonds are not presented for payment when due or pursuant to any optional or mandatory tender of Bonds (described below under "The Bonds - Tender Option" and "The Bonds - Mandatory Purchase upon Expiration of Letter of Credit or Conversion of Interest Rate Period"), or if a check or draft for interest is uncashed, and if funds sufficient for such redemption or payment are held by the Trustee, the Paying Agent or the Tender Agent, the Trustee shall thereafter hold such funds without liability for interest, and the Holders of such Bonds will thereafter be restricted exclusively to such funds for the satisfaction of any claim relating to such Bonds. Any such funds remaining unclaimed for four (4) years after becoming due and payable shall be disbursed by the Trustee to the Borrower or the Bank as provided in the Indenture, and the Holder entitled to such funds shall thereafter be entitled to look only to the Borrower for payment, and only to the amounts so received by the Borrower, if any, without interest thereon.

## **Transfer and Exchange**

The Bonds are to be issued or exchanged as fully registered bonds only in minimum denominations of \$100,000 and in any integral multiple of \$5,000 in excess thereof, unless the Bonds have been converted to a Fixed Interest Rate in which case the Bonds may be in denominations of \$5,000 or any integral multiple thereof. The Registrar shall not be required to transfer or exchange any Bonds selected for redemption, in whole or in part or a Bond which has not been tendered properly.

Subject to the next succeeding paragraph and to the satisfaction where appropriate of subparagraphs (a), (b), (c) and (d) thereafter following and subject to the limitations with respect to Bonds held in book entry form, the Bonds may be transferred or exchanged for one or more Bonds of different authorized denominations upon surrender thereof (together with an assignment duly executed by the registered owner or his/her/its attorney or legal representative in form satisfactory to the Trustee) at the principal corporate trust office of the Trustee by the registered owners or their duly authorized attorneys. Upon surrender of any Bonds to be transferred or exchanged, the Trustee shall record the transfer or exchange in its registration books and shall authenticate and deliver new Bonds appropriately registered and in the above referenced appropriate authorized denominations. The registered owner requesting any such transfer or exchange may be charged a sum sufficient to cover any tax, fee or other governmental charge which may be imposed with respect thereto. Neither the Issuer nor the Trustee is required to make any such transfer or exchange of Bonds during the fifteen (15) day period prior to the date of mailing of any notice of redemption or at any time after the mailing of such notice, if the Bond to be transferred or exchanged has been called for such redemption. No transfer or exchange made other than as described above and in the next succeeding paragraph and in the Indenture shall be valid or effective for any purposes under the Indenture.

The Bonds are intended to be exempt securities under the Securities Act of 1933, as amended, and the offer, sale and delivery of the Bonds does not require registration under the Securities Act or qualification of the Indenture under the Trust Indenture Act of 1939. The Bonds may only be sold, transferred, pledged or hypothecated, in whole or in part, if they are registered under the Securities Act and all applicable state securities laws or if an exemption from registration continues to be available. If the Letter of Credit is not then in effect, the Paying Agent will not register on the Bond Register any sale or transfer of Bonds by any owner, including a remarketing occurring as a result of a tender for purchases of a Bond by the owner thereof, unless the following conditions of either (a), (b),(c) or (d) are satisfied:

(a) the new owner represents and warrants to the Trustee, the Borrower, and the Remarketing Agent that it is acquiring such Bond for investment purposes and not with a view to the resale or distribution thereof, within the meaning of the Securities Act and any applicable state securities law, and the new owner acknowledges that the Bonds have not been registered under the Securities Act or any state securities laws and therefore may not be resold, transferred, pledged or hypothecated, in whole or in part, unless they are registered under the Securities Act and any applicable state securities laws or unless an exemption from registration is available; or

(b) each of the Trustee, the Borrower and the Remarketing Agent have otherwise satisfied themselves that the Bonds have been registered under the Securities Act and all applicable state securities laws, or that any exemption from such registration (including, without limitation, exemption under Section 3(a)(2) of the Securities Act) continues to be available; or

(c) if such sale or transfer is to an affiliate (as defined in Rule 501 promulgated by the Securities and Exchange Commission under the Securities Act) of the former owner, the new owner represents and warrants to the Trustee, the Remarketing Agent, and the Borrower that (i) it is an affiliate of the former owner, (ii) it is an investment company registered under the Investment Company Act of 1940, as amended, (iii) it qualifies as an "accredited investor" within the meaning of said Rule 501 and (iv) such sale or transfer is exempt from registration under the Securities Act and all applicable state securities laws; or

(d) an opinion of Counsel, satisfactory to Borrower, the Remarketing Agent, the Paying Agent and the Trustee to the effect that such sale or transfer is exempt from registration under the Securities Act and from registration or qualification of all applicable state securities laws, or that such registration or qualification has been accomplished.

### **Interest Rates**

The interest rates to be borne by the Bonds are described below. The Bonds will initially bear interest at a Weekly Interest Rate, but that rate, together with certain other provisions of the Bonds, may be converted to a One Month Interest Rate, a Three Month Interest Rate, a Six Month Interest Rate, a One Year Interest Rate, a Five Year Interest Rate or to a Fixed Interest Rate, as described below (the One Month, Three Month, Six Month and One Year Interest Rate are collectively referred to as an "Other Rate Period").

Weekly Interest Rate. During any Weekly Rate Period, the Bonds shall bear interest at the rate per annum established as follows, computed on the basis of a 365-day or 366-day year, as applicable, for the actual number of days elapsed. From the date of issuance and delivery of the Bonds to and including the first Interest Adjustment Date, the Bonds shall bear interest at the interest rate established by the Remarketing Agent as the rate which, based upon current transactions in comparable securities in which the Remarketing Agent is involved or of which it is aware and prevailing financial market conditions, would be the lowest possible interest rate that would still enable the Remarketing Agent to sell the Bonds at a price equal to the principal amount thereof, plus accrued interest thereon. Thereafter, the Remarketing Agent is required to determine the interest rate on the Bonds on each Interest Adjustment Date and such rate shall become effective on Thursday of such week. If, for any reason, the Remarketing Agent fails to make or announce such determination on such Interest Adjustment Date or if an Interest Adjustment Date does not occur during any calendar week, the rate to take effect on Thursday of such week will be a rate equal to the previously determined Weekly Variable Rate. In no event will the interest rate on the Bonds exceed the Maximum Interest Rate.

Other Rate Period. During any Other Rate Period, the Bonds shall bear interest at a rate of interest per annum established as follows, computed on the basis of a 360-day year of twelve 30-day months and payable on each Interest Payment Date. The Remarketing Agent is required to determine the interest rate on the Bonds on each Interest Adjustment Date, and such rate shall become effective on the first day of the next Computation Period. The interest rate on the Bonds determined by the Remarketing Agent shall be the interest rate which, if borne by the Bonds, would, based upon current transactions in comparable securities in which the Remarketing Agent is involved or of which it is aware and prevailing financial market conditions, be the lowest possible interest rate that would still enable the Remarketing Agent to sell the Bonds at a price equal to the principal amount thereof plus accrued interest thereon. If, for any reason, the Remarketing Agent fails to make or announce such determination on such Interest Adjustment Date, the interest rate to take effect on the first day of the next Computation Period, shall be a rate equal to the previously determined rate. In no event will the interest rate on the Bonds exceed the Maximum Interest Rate.

During both the Weekly Rate Period and the Other Rate Period, the Remarketing Agent is required to announce the rate so determined by telephonic notice to the Trustee (confirmed in writing) on each Interest Adjustment Date. Notice of the interest rate so determined shall be (i) sent by the Trustee to (a) the Borrower, any paying agent

and the Bank and (b) the Holders requesting such notice and (ii) made available to all Holders who telephone the Remarketing Agent and request it. The interest rate on the Bonds so determined shall be conclusive and binding upon the Holders.

Five Year or Fixed Interest Rate. At the request of the Borrower, the interest rate on the Bonds may be converted to a Five Year Rate or a Fixed Interest Rate until maturity, payable on each Interest Payment Date, and computed on the basis of a 360-day year of twelve 30-day months. The Borrower must provide a written direction to any paying agent, the Trustee, the Bank, the Issuer and the Remarketing Agent specifying the date of conversion (which must be an Interest Payment Date not less than 60 days, or such shorter period agreed to by the Trustee, the Remarketing Agent and the Borrower, from the date the Borrower give such direction and which Interest Payment Date must be the last Interest Payment Date of a Computation Period if the current interest period is an Other Rate Period) and the date the Fixed Interest Rate shall be established (which shall not be fewer than ten (10) Business Days prior to the date of conversion). Such direction must be accompanied by consent of the Bank and an opinion of nationally recognized bond counsel stating that the conversion to the Fixed Interest Rate is authorized or permitted by the Indenture and state law, and that conversion to the Fixed Interest Rate will not adversely affect the exclusion from gross income of the interest on the Bonds for federal income tax purposes.

Following receipt of the Borrower' direction, the Remarketing Agent is required to determine, on the date specified by the Borrower for such determination, the Fixed Interest Rate as the interest rate which, if borne by the Bonds, would, based upon current transactions in comparable securities in which the Remarketing Agent is involved or of which it is aware and prevailing financial market conditions, be the lowest possible interest rate that would still enable the Remarketing Agent to sell at a price equal to the principal amount thereof plus accrued interest all the then outstanding Bonds. Such determination by the Remarketing Agent shall be conclusive and shall be the Fixed Interest Rate for the Bonds commencing with the Interest Payment Date which is the date of conversion until maturity. In no event may the Fixed Interest Rate on the Bonds exceed 9% per annum. The Issuer shall have the right to deliver replacement Bonds bearing the Fixed Interest Rate with deletion of such terms as are no longer applicable to the Bonds.

The Trustee shall give notice by mail to the Holders of the Bonds to be converted not fewer than 30 days prior to the date of conversion to the Fixed Interest Rate. Such notice will state (i) that the interest rate on the Bonds is scheduled to be converted to a Fixed Interest Rate, (ii) the effective date of the Fixed Interest Rate, (iii) the date the Fixed Interest Rate is scheduled to be determined, (iv) that the minimum authorized denomination of the Bonds may be \$5,000, (v) that subsequent to such effective date the Holder will no longer have the right to require purchase of Bonds by the Tender Agent as described under "The Bonds - Tender Option" and (vi) that all outstanding Bonds not purchased by the Tender Agent on or prior to the effective date of the Fixed Interest Rate will be purchased by the Tender Agent on the effective date of the Fixed Interest Rate at a purchase price of par plus accrued interest, if any, except Bonds or portions thereof which the Holder shall have directed the Tender Agent not to purchase as described under "The Bonds - Mandatory Purchase Upon Expiration of Letter of Credit or Conversion of Interest Rate Period". That notice will be given by registered or certified mail to the Holders whose names appear on the Register as of the date preceding the date of the mailing of such notice.

Conversion From Weekly Rate Period or Other Rate Period or to a New Computation Period. Upon receipt by any paying agent, the Trustee, the Bank, the Issuer and the Remarketing Agent of a direction from the Borrower (i) specifying the date a Weekly Rate Period or Other Rate Period shall be established or the date the Computation Period shall be changed (which shall be an Interest Payment Date at least 60 days, or such shorter period agreed to by the Trustee, the Remarketing Agent and the Borrower, from the date the Borrower give such direction and which Interest Payment Date must be the last Interest Payment Date of a Computation Period if the current interest period is an Other Rate Period) and (ii) if an Other Rate Period is specified, setting forth the Computation Period for that Other Rate Period. The Remarketing Agent is required to compute the applicable interest rate as described above. Such direction shall be accompanied by an opinion of nationally recognized bond counsel stating that such conversion is authorized or permitted by the Indenture and state law, and that conversion to a Weekly Rate Period or an Other Rate Period (including an Other Rate Period which follows an Other Rate Period) or change in the Computation Period in

accordance with the provisions of the Indenture will not adversely effect the exclusion from gross income of the interest on the Bonds for federal income tax purposes.

Upon such direction, the Trustee is required to give notice by mail to the Holders of the Bonds not fewer than 30 days prior to the date of conversion. Such notice shall state (i) that the interest period on the Bonds is scheduled to be converted to a Weekly Rate Period or an Other Rate Period or a different Computation Period for an Other Rate Period, (ii) the effective date of such conversion and whether the new period is a Weekly Rate Period or an Other Rate Period (including, in the case of an Other Rate Period, the new Computation Period), (iii) that the effective date of such conversion shall be an Interest Payment Date on which interest will be paid at the applicable rate theretofore prevailing, (iv) that thereafter interest will be determined on the basis of the new Weekly Rate Period or Other Rate Period, as applicable, and (v) the manner in which the Bonds are subject to optional tender as provided in the Indenture. Such notice is required to be given by registered or certified mail to the Holders of the Bonds whose names appear on the Register as of the date preceding the date of the mailing of such notice.

### **Redemption Prior to Maturity**

The Bonds are subject to redemption prior to maturity as described below.

Optional Redemption. During a Weekly Rate Period, the Bonds are subject to redemption, in whole on any date, or in part (in any authorized denomination or any integral multiple thereof) on any Interest Payment Date, at the option of the Issuer, upon the direction of the Borrower, at a redemption price equal to 100% of the principal amount of the Bonds so redeemed, plus accrued interest to the redemption date.

During an Other Rate Period, the Bonds are subject to redemption in whole or in part (in any authorized denomination) on the final Interest Payment Date of any Computation Period, at the option of the Issuer, upon the direction of the Borrower, at a redemption price equal to 100% of the principal amount of the Bonds so redeemed, plus accrued interest to the redemption date.

During the Fixed Rate Period, the Bonds shall be subject to optional redemption by the Issuer, at the direction of the Corporation, in whole on any date or in part (in any authorized denomination or any integral multiple thereof) on any Interest Payment Date. If the Fixed Rate Period is less than three years, the Bonds shall be redeemable at 100% of their principal amount, plus accrued interest to the redemption date, plus accrued interest to the redemption date.

If the Fixed Rate Period is equal to or greater than three years, the Bonds shall be redeemable at 101% of their principal amount during the first year of the Fixed Rate Period, and shall be redeemable thereafter at 100% of their principal amount, in each case plus accrued interest to the redemption date.

The Trustee is not permitted to draw on the Letter of Credit to pay any premium due upon optional redemption. Any premium payable may be paid only from moneys which have been held by the Trustee on deposit in the Redemption Premium Account established in the Bond Fund for at least 123 consecutive days during which a petition in bankruptcy shall not have been filed by or against the Borrower or the Issuer under federal bankruptcy laws.

The Bonds are also subject to redemption from excess proceeds of the Bonds transferred from the Project Fund to the Bond Fund at a redemption price equal to 100% of the principal amount redeemed plus accrued interest to the redemption date.

Extraordinary Optional Redemption. The Bonds are also subject to redemption by the Issuer in the event of the exercise by the Borrower of its option to direct that redemption, at any time in whole (or in part on any Interest Payment Date in the event of condemnation of part of the Project and subject to certain requirements contained in the Loan Agreement), at a redemption price of 100% of the principal amount of the Bonds so redeemed, plus interest accrued to the redemption date, upon the occurrence of any of the following events:

(a) The Project shall have been damaged or destroyed to such an extent that (i) it cannot reasonably be expected to be restored, within a period of six (6) consecutive months, to the condition thereof immediately preceding such damage or destruction or (ii) its normal use and operation is reasonably expected to be prevented for a period of six (6) consecutive months.

(b) Title to, or the temporary use of, all or a significant part of the Project shall have been taken under the exercise of the power of eminent domain (i) to such extent that the Project cannot reasonably be expected to be restored within a period of six (6) consecutive months to a condition of usefulness comparable to that existing prior to the taking or (ii) as a result of the taking, normal use and operation of the Project is reasonably expected to be prevented for a period of six (6) consecutive months.

(c) As a result of any changes in the Constitution of the Commonwealth of Kentucky, the Constitution of the United States of America, or state or federal laws or as a result of legislative or administrative action (whether State or federal) or by Final decree, judgment or order of any court or administrative body (whether state or federal) entered after the contest thereof by the Issuer or the Borrower in good faith, the Loan Agreement shall have become void or unenforceable or impossible of performance in accordance with the intent and Purpose of the parties as expressed in the Loan Agreement, or if unreasonable burdens or excessive liabilities shall have been imposed with respect to the Project or the operation thereof.

(d) Change in the economic availability of raw materials, operating supplies, energy sources or supplies or facilities (including, but not limited to, facilities in connection with the disposal of industrial wastes) necessary for the operation of the Project for the purposes set forth in the Loan Agreement shall have occurred or technological or other changes shall have occurred which the Borrower cannot reasonably overcome or control and which in the Borrower's reasonable judgment render the Project uneconomic for Project purposes. To exercise their option for extraordinary optional redemption, the Borrower are required to give notice, within 90 days following the event authorizing the exercise of that option, or at any time during the continuation of the condition referred to in paragraph (d) above, to the Issuer and to the Trustee specifying the date for that redemption, which date is required to be not more than 90 days from the date that such notice is mailed and the Borrower are required to make arrangements satisfactory to the Trustee for the giving of the required notice of redemption.

Mandatory Redemption Upon Determination of Taxability. Upon the occurrence of a "Determination of Taxability", as defined below, the Bonds are subject to mandatory redemption in whole by the Issuer from the proceeds of the Borrower paying advance Loan Payments pursuant to the Loan Agreement at a redemption price equal to 100% of the outstanding principal amount thereof, plus interest accrued to the redemption date, at the earliest practicable date selected by the Trustee, after consultation with the Borrower, but in no event later than 45 days following the Trustee's notification of the Determination of Taxability.

"Determination of Taxability" means and shall occur when, (i) the Trustee receives written notice from the Borrower, supported by an opinion of Bond Counsel, that interest on the Bonds is includable in the gross income of holders of the Bonds for federal income tax purposes or (ii) the Internal Revenue Service shall claim in writing that interest on the Bonds is includable in the gross income of holders of the Bonds for federal income tax purposes; provided, that such a claim shall not be deemed a Determination of Taxability unless the Borrower is afforded reasonable opportunity (at the Borrower's sole expense and for a period not to exceed 2 years) to pursue any judicial or administrative remedy available to the Borrower with respect to such claim."

The Issuer, or the Borrower on behalf of the Issuer, shall have the option to deliver to the Registrar for cancellation Bonds in any aggregate principal amount and to receive a credit against the then current mandatory sinking fund redemption requirement of the Issuer as set forth above for any Bonds. That option shall be exercised by the Issuer, or the Borrower on behalf of the Issuer, on or before the 45<sup>th</sup> day preceding the applicable mandatory sinking fund redemption date, by furnishing the Trustee a certificate, executed by the Authorized Borrower Representative

setting forth the extent of the credit to be applied with respect to the then current mandatory sinking fund redemption requirements, and the Bonds to be so credited. If the certificate and the Bonds to be credited are not timely furnished to the Trustee, the mandatory sinking fund redemption requirement shall not be reduced. A credit against the then current mandatory sinking fund redemption requirement also shall be received by the Issuer for any Bonds which prior thereto have been redeemed (other than through the operation of the mandatory sinking fund redemption requirements) or purchased for cancellation and cancelled by the Trustee, to the extent not applied theretofore as a credit against any redemption obligation.

Notice of Redemption. The notice of the call for redemption of all or part of the Bonds will be given by the Trustee on behalf of the Issuer by mailing a copy of the redemption notice by first class mail, postage prepaid, at least 30 days prior to the date fixed for redemption to the Remarketing Agent and to the Holder of each Bond to be redeemed at the address shown on the Register on the day preceding that mailing. Such notice will, among other items, identify the Bonds or portions thereof being redeemed and specify the redemption price and date and the place or places where the amounts due upon redemption are payable. Before such notice is given, funds in the amount of the redemption premium, if any, must be deposited with the Trustee and held for a period of 123 consecutive days.

Any defect in the notice of redemption regarding any Bond or any failure to receive such notice by mailing will not affect the validity of the proceedings for the redemption of any Bonds.

Partial Redemption. If fewer than all of the Bonds are to be redeemed, the selection of Bonds to be redeemed, or portions thereof, shall be made by lot by the Trustee in any manner which the Trustee may determine. In the case of a partial redemption of Bonds by lot when Bonds of denominations greater than the minimum authorized denomination are then outstanding, each unit of face value of principal thereof equal to the minimum authorized denomination will be treated as though it were a separate Bond of the minimum authorized denomination. If it is determined that one or more, but not all of the units of face value represented by a Bond are to be called for redemption, then upon notice of redemption of such unit or units, the Holder of that Bond must surrender the Bond to the Trustee (a) for payment of the redemption price of the unit or units of face value called for redemption (including, without limitation, the interest accrued to the date fixed for redemption and any premium), and (b) for issuance, without charge to the Holder thereof, of a new Bond or Bonds of the same issue, of any authorized denomination or denominations in an aggregate principal amount equal to the unmatured and unredeemed portion of, and bearing interest at the same rate and maturing on the same date as, the Bond surrendered.

Mandatory Tender Upon Expiration of Letter of Credit or Conversion of Interest Rate Period or Replacement of Letter of Credit with an Alternate Letter of Credit. The Bonds are subject to mandatory purchase by the Tender Agent on behalf of the Borrower in whole at a purchase price of 100% of the principal amount thereof plus accrued interest (i) on the Interest Payment Date next preceding the expiration date of the Letter of Credit, unless the term of the Letter of Credit has been extended or the Letter of Credit has been replaced with an Alternate Letter of Credit identical in all material respects to the then current Letter of Credit (except for the expiration date thereof); (ii) on the Interest Payment Date which is the effective date of a different Interest Rate or if the Bonds bear interest in an Other Rate Period, upon conversion of the Computation Period; or (iii) on the Interest Payment Date next preceding the replacement of the Letter of Credit with an Alternate Letter of Credit pursuant to Section 5.09 of the Indenture. In each case except upon expiration of the Letter of Credit without either an extension thereof or a replacement with an Alternate Letter of Credit, there shall not be so purchased Bonds with respect to which the Trustee shall have received directions not to purchase from the Holders thereof in accordance with the Indenture, and in the case of conversion to a new Interest Rate Period or Computation Period, Bonds which have been remarketed bearing a new Interest Rate Period or Computation Period are not subject to repurchase.

Notice of any mandatory tender pursuant to the preceding paragraph shall be given by the Trustee by first class mail, postage prepaid, at least 30 days prior to the date fixed for purchase, to each Holder at the address shown on the Register on the day preceding that mailing. Failure to receive notice by mailing, or any defect in that notice, as to any Bond shall not affect the validity of the proceeding for the purchase of any other Bond.



Except in the event of the expiration of the Letter of Credit without either an extension thereof or a replacement with an Alternate Letter of Credit, a Holder may direct the Tender Agent not to purchase all or any portion in an authorized denomination of any Bond by delivering to the Tender Agent at its principal office on or before the fifteenth day preceding the date fixed for such purchase, an instrument in writing executed by such Holder: (i) specifying the numbers and denominations of the Bonds held by him; (ii) acknowledging receipt of notice of the matters set forth in the notice sent by the Trustee for the mandatory purchase; and (iii) directing the Tender Agent not to purchase such Bonds or portions thereof; provided, however, that a Holder who makes such a direction must continue to own such Bonds at least through the date of conversion to the Fixed Interest Rate or through the date of expiration of the Letter of Credit, as the case may be.

Except to the extent a Holder has directed the Tender Agent not to purchase Bonds on behalf of the Borrower in accordance with the preceding paragraph, upon notice of any mandatory purchase, each Holder must undertake to deliver all Bonds to the Tender Agent at or prior to 9:30 a.m., Louisville, Kentucky time, at the principal office of the Tender Agent, one Business Day prior to the mandatory purchase date. The Remarketing Agent is required to offer for sale and use its best efforts to remarket the Bonds with respect to which the Tender Agent has not received a direction from the Holders not to purchase the Bonds, as described in the preceding paragraph. That remarketing shall be carried out in the same manner as described herein under "The Bonds - Remarketing of Bonds" for optional purchases of Bonds.

IF A HOLDER FAILS TO DELIVER ANY BONDS ON OR PRIOR TO THE APPLICABLE TENDER DATE, SUCH UNTENDERED BONDS SHALL BE DEEMED TO HAVE BEEN PROPERLY TENDERED FOR PURCHASE TO THE TENDER AGENT AND, TO THE EXTENT THAT THERE SHALL BE ON DEPOSIT WITH THE TENDER AGENT AND AVAILABLE THEREFOR AN AMOUNT SUFFICIENT TO PAY THE PURCHASE PRICE THEREOF, SUCH UNTENDERED BONDS SHALL ON SUCH PURCHASE DATE CEASE TO BEAR INTEREST AND NO LONGER SHALL BE CONSIDERED TO BE OUTSTANDING UNDER THE INDENTURE.

The Tender Agent is required to hold moneys drawn by the Trustee under the Letter of Credit or received upon remarketing or otherwise provided for such purchase of any untendered Bonds for a period of seven (7) days, without liability for interest thereon, for the benefit of the former Holder of the Bonds, who shall for such period be restricted exclusively to such moneys for such claim of whatever nature on its part under the Indenture or on, or with respect to, such Bond. At the end of such seven-day period, the Tender Agent is required to deliver such moneys to the Trustee, who shall hold such moneys in accordance with the Indenture.

### **Tender Option**

During any Weekly Rate Period, any Bonds owned by a Holder shall be purchased by the Tender Agent, but only from the sources described below under "The Bonds - Remarketing of Bonds", on the demand of the Holder thereof (other than the Borrower), on any Business Day at a purchase price equal to 100% of the principal amount thereof plus (if such Business Day is not an Interest Payment Date) accrued interest to the date of purchase, upon delivery to the Tender Agent at its principal office of a demand for purchase properly completed and executed, which states (i) the principal amount of such Bonds which will be delivered for purchase, (ii) the date on which such Bonds shall be purchased, which date shall be a Business Day not prior to the seventh day and not later than the fifteenth day next succeeding the date of delivery of such demand for purchase, (iii) that the demand for purchase is an irrevocable request, (iv) that the Holder will undertake to deliver the Bonds to the Tender Agent at or prior to 9:30 a.m., Louisville, Kentucky time, at the principal office of the Tender Agent one Business Day prior to the date on which purchase is demanded and (v) the name of the Holder of such Bonds and the bond number and CUSIP number thereof.

By delivering such notice, the Holder irrevocably agrees to deliver such Bonds to the principal office of the Tender Agent at or prior to 9:30 a.m., Louisville, Kentucky time, one Business Day prior to the date specified in the demand for purchase.

During any Other Rate Period, any Bonds owned by a Holder shall be purchased by the Tender Agent, but only from the sources described in "The Bonds - Remarketing of Bonds" on the demand of the Holder thereof (other than the Borrower), on any Tender Date at a purchase price equal to 100% of the principal amount thereof, upon delivery to the Tender Agent at its principal office not later than 4:00 p.m., Louisville, Kentucky time, on or before the tenth Business Day prior to such Tender Date of a demand for purchase properly completed and executed, which states (i) the principal amount of such Bonds which will be delivered for purchase, (ii) that the demand for purchase is an irrevocable request, (iii) that the Holder will undertake to deliver the Bonds to the Tender Agent at or prior to 9:30 a.m., Louisville, Kentucky time, at the principal office of the Tender Agent, on the Business Day immediately preceding such Tender Date and (iv) the name of the Holder of such Bonds and the bond number and CUSIP number thereof. By delivering such notice the Holder irrevocably agrees to deliver such Bonds to the principal office of the Tender Agent at or prior to 9:30 a.m., Louisville, Kentucky time, at the principal office of the Tender Agent, on the Business Day immediately preceding such Tender Date.

The Tender Agent shall determine, in its sole discretion, whether a Bond which has been tendered for purchase conforms in all respects to the description thereof set forth in the demand for purchase.

IF THE HOLDER MAKING SUCH ELECTION TO TENDER BONDS SHALL FAIL TO DELIVER SUCH BONDS DESCRIBED IN SUCH TENDER NOTICE TO THE TENDER AGENT ON OR BEFORE THE APPLICABLE TENDER DATE, THE UNTENDERED BONDS SHALL BE DEEMED TO HAVE BEEN PROPERLY TENDERED FOR PURCHASE AND, TO THE EXTENT THAT THERE SHALL BE ON DEPOSIT WITH THE TENDER AGENT AND AVAILABLE THEREFOR AN AMOUNT SUFFICIENT TO PAY THE PURCHASE PRICE THEREOF, SUCH UNTENDERED BONDS SHALL ON SUCH PURCHASE DATE CEASE TO BEAR INTEREST AND NO LONGER SHALL BE CONSIDERED TO BE OUTSTANDING UNDER THE INDENTURE.

The Tender Agent is required to hold moneys drawn by the Trustee under the Letter of Credit or received upon remarketing or otherwise provided for such purchase of any untendered Bonds for a period of seven days, without liability or interest thereon, for the benefit of the former Holder of the Bond, who shall for such period be restricted exclusively to such moneys for such claim of whatever nature on its part under the Indenture or on, or with respect to, such Bond. At the end of such seven-day period, the Tender Agent will deliver such moneys to the Trustee, who shall hold such moneys in accordance with Section 5.6 of the Indenture.

### **Remarketing of Bonds**

Upon receipt of notice from the Tender Agent of its receipt of a demand for purchase of any Bond (or authorized portion thereof) as described in "The Bonds - Tender Option", the Remarketing Agent shall offer for sale and use its best efforts to sell such Bond (other than to the Borrower or the Issuer) at a purchase price equal to 100% of the principal amount thereof plus accrued interest thereon. The Remarketing Agent shall direct any person to whom a Bond is remarketed pursuant to this paragraph to deliver the purchase price therefor in immediately available funds to the Tender Agent at its principal office on or before 9:30 a.m., Louisville, Kentucky time, on the settlement date (which must be a Business Day) arranged by the Remarketing Agent and agreed to by the person purchasing such Bond (or authorized portion thereof).

On the Business Day a Bond (or authorized portion thereof) is to be purchased pursuant to a tender option, the Tender Agent shall, to the extent such funds are available, purchase such Bond (or authorized portion thereof) from the Holder thereof at a purchase price equal to the principal amount thereof plus accrued interest, if any, to the date of purchase (if such date is not an Interest Payment Date) (i) first from any moneys available from the proceeds of remarketing such Bond, other than a remarketing to the Issuer, the Borrower or any guarantor of the Bonds (other than the Bank) or of the Borrower's obligations to reimburse the Bank or any "insider" of any of them as that term is defined in Section 101(31) of the U.S. Bankruptcy Code or (ii) second from moneys representing a drawing by the Trustee under the Letter of Credit and (iii) third from any other sources available for such purchase, whether from the Borrower or otherwise.

Any Bond purchased by the Tender Agent and remarketed by the Remarketing Agent from the date notice of a mandatory purchase upon establishment of a Fixed Interest Rate is given by the Trustee through the effective date of the Fixed Interest Rate shall not be remarketed except to a buyer who agrees at the time of such purchase either (i) to accept the Fixed Interest Rate when the Fixed Interest Rate becomes effective or (ii) to require purchase of the Bonds by the Tender Agent pursuant to the optional tender provisions described above under "The Bonds - Tender Option" on the effective date of the Fixed Interest Rate. Any Bond purchased by the Tender Agent and remarketed by the Remarketing Agent from the date notice of a conversion to an Other Rate Period is given by the Trustee through the effective date of the Other Rate Period shall not be remarketed except to a buyer who agrees at the time of such purchase to accept the new interest rate when the Other Rate Period becomes effective. Any Bond purchased by the Tender Agent and remarketed by the Remarketing Agent from the date of notice of the expiration of the Letter of Credit is given shall not be remarketed except to a buyer who has been informed that the Bonds will no longer be secured by a Letter of Credit and, if applicable, that any former rating on the Bonds has been reduced or withdrawn.

The Bonds do not provide for a tender option and remarketing during a Fixed Rate Period, and in the case of an Other Rate Period, an optional tender may only be made effective on the first day of any Computation Period. There shall be no remarketing of Bonds if the Trustee shall have notified the Remarketing Agent that there has occurred and is continuing a default or an Event of Default under the Indenture.

#### SOURCES OF PAYMENT AND SECURITY FOR THE BONDS

##### **Generally**

The Bonds will be special limited obligations of the Issuer, payable only from amounts drawn on the Letter of Credit, certain revenues and receipts and certain other funds assigned to the Trustee for the payment thereof pursuant to the Indenture. The payment of the Bonds will be secured by the assignment of (1) all of the right, title and interest of the Issuer in and to the Revenues (as defined in the Indenture), (2) all right, title and interest of the Issuer under the Loan Agreement, except for the Unassigned Issuer's Rights, and (3) all amounts on deposit from time to time in the Bond Fund, subject to the provisions of the Indenture and the Loan Agreement permitting the application thereof for the purposes and on the terms and conditions set forth therein but excluding any amounts on deposit in the Rebate Fund. The Trustee has been directed to draw on the Letter of Credit as described herein under the "The Indenture - The Bond Fund."

THE BONDS AND THE INTEREST AND PREMIUM, IF ANY, THEREON ARE PAYABLE SOLELY FROM PAYMENTS TO BE MADE BY THE BORROWER (AS DEFINED HEREIN) UNDER THE LOAN AGREEMENT AND THE OTHER SOURCES PROVIDED IN THE INDENTURE. THE BONDS ARE NOT A GENERAL OR MORAL OBLIGATION, DEBT OR LIABILITY OF THE ISSUER, THE COMMONWEALTH OF KENTUCKY OR ANY POLITICAL SUBDIVISION THEREOF WITHIN THE MEANING OF THE CONSTITUTION OR STATUTES OF THE STATE, OR A PLEDGE OF THE FAITH AND CREDIT OF THE ISSUER, THE STATE OR ANY POLITICAL SUBDIVISION THEREOF. THE BONDS DO NOT GRANT TO THE HOLDERS OR BENEFICIAL OWNERS THEREOF THE RIGHT TO HAVE THE ISSUER, THE STATE OR ANY POLITICAL SUBDIVISION OF THE STATE LEVY ANY TAXES OR APPROPRIATE ANY FUNDS FOR THE PAYMENT THEREOF OR THE INTEREST OR PREMIUM, IF ANY, THEREON, AND DO NOT CONSTITUTE OR GIVE RISE TO ANY PECUNIARY LIABILITY OF THE ISSUER, THE STATE OR ANY POLITICAL SUBDIVISION THEREOF, AND NEITHER THE ISSUER, THE STATE, NOR ANY POLITICAL SUBDIVISION THEREOF SHALL BE LIABLE FOR

## THE PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THE BONDS.

### THE LETTER OF CREDIT

As additional security for the payment of amounts due under the Loan Agreement, the Borrower will cause to be delivered to the Trustee an irrevocable direct pay Letter of Credit issued by the Bank pursuant to the terms of the Reimbursement Agreement. The Letter of Credit will obligate the Bank to pay (a) principal of the Bonds when due, whether at stated maturity or upon redemption or acceleration, (b) the purchase price of the Bonds delivered to U.S. Bank National Association as tender agent (the "Tender Agent") and not remarketed by NatCity Investments, Inc., as remarketing agent (the "Remarketing Agent"), and (c) up to 110 days' interest accrued on the Bonds at the Maximum Interest Rate.

On or before 2:30 p.m., Cleveland, Ohio time, on the Business Day preceding the date of any payment of the Bond Service Charges or for the payment of the redemption price on the Bonds or on or before 10:30 a.m., Cleveland, Ohio time, on the Business Day established for the payment of the purchase price of tendered Bonds, the Trustee has been directed to make a drawing on the Letter of Credit in an amount sufficient to pay in full the Bond Service Charges or the purchase price then due and payable on the respective Bonds. All amounts drawn by the Trustee under the Letter of Credit will be deposited in the Letter of Credit Account in the Bond Fund created by the Indenture.

The Bank's obligation under the Letter of Credit will be reduced automatically to the extent of any drawing thereunder. However, after a draw under the Letter of Credit for the purpose of paying interest on the Bonds, the Bank's obligation under the Letter of Credit will be reinstated so that the Trustee will be entitled to again draw under the Letter of Credit in an amount that could have been drawn thereunder as if such drawing in respect of interest were disregarded, unless within five days after such draw is honored the Trustee receives a notice from the Bank to the effect that the Bank has decided not to effect such reinstatement because either (i) the Bank had not been reimbursed in full by the Borrower for an interest drawing or (ii) an Event of Default exists under the Reimbursement Agreement. After a drawing under the Letter of Credit for the purchase price of Bonds which have been tendered for purchase, and upon the remarketing, sale or placement of such tendered Bonds, the Bank's obligation under the Letter of Credit will be reinstated so that the Trustee again will be entitled to draw under the Letter of Credit an amount in respect of principal which could have been drawn thereunder as if such drawing were disregarded.

The Letter of Credit is an irrevocable direct pay obligation of the Bank which will expire upon the earliest to occur of (i) Bank honoring the final drawing to be made under the Letter of Credit (ii) the close of business on September 16, 2012, unless extended, (iii) receipt by the Bank of notice from the Trustee of payment in full of the principal of, and interest on, the Bonds or (iv) receipt by the Bank of its Letter of Credit and of notice from the Trustee of the acceptance by the Trustee of an Alternate Letter of Credit which has been in effect for at least five Business Days; provided that if any of the foregoing dates would occur on other than a Business Day, the Letter of Credit shall expire on the immediately preceding Business Day. If the Letter of Credit expires, all Bonds will be subject to mandatory purchase on the Interest Payment Date next preceding such expiration date at a price equal to the principal amount thereof plus interest accrued to said purchase date. See "The Bonds - Mandatory Purchase Upon Expiration of Letter of Credit or Conversion of Interest Rate Period or Replacement of Letter of Credit with an Alternate Letter of Credit."

Unless the Borrower have secured and has provided to the Trustee either an extension to the expiration date of the Letter of Credit, or an Alternate Letter of Credit, the Trustee is required to give notice, in the name of the Issuer, of the expiration of the term of the Letter of Credit, which notice shall (i) specify the date of the expiration of the term of the Letter of Credit, (ii) if applicable, specify the last times and dates prior to such expiration on which Bonds may be delivered, and on which notice may be given, for the optional purchase of Bonds as described herein under "The Bonds - Tender Option", and the places where such Bonds are to be delivered for such purchase, (iii) state that upon that expiration, any rating on the Bonds may be reduced or withdrawn and (iv) state that the Bonds shall be subject to a mandatory purchase by the Tender Agent on behalf of the Borrower at a price equal to 100% of the principal amount thereof plus accrued interest on the Interest Payment Date next preceding the expiration date of the Letter of Credit. Such notice shall be given by first class mail, postage prepaid, not fewer than thirty days prior to the Interest Payment Date next preceding the expiration date of the Letter of Credit to the Holders of the Bonds and to the Remarketing Agent.

Under the Reimbursement Agreement, the Borrower will be obligated to reimburse the Bank for amounts drawn on the Letter of Credit. From the date of the delivery of the Bonds to the original purchasers thereof through the original expiration date of the Letter of Credit, the Borrower have agreed to take whatever action may be necessary to maintain the Letter of Credit in full force and effect.

The Borrower may, at any time, but in no event later than 45 days prior to the Interest Payment Date preceding the date on which the Letter of Credit by its terms will expire, at its option (i) provide for an extension of the expiration date of the Letter of Credit or (ii) provide for the delivery to the Trustee of an Alternate Letter of Credit which have terms which are the same in all materials respects (except as to expiration date) as the existing Letter of Credit. Any extension of the expiration date of the Letter of Credit or any Alternate Letter of Credit must (a) provide for an expiration date that is not earlier than one year from (i) the current expiration date of the Letter of Credit then in effect, or (ii) the final maturity of the Bonds, and (b) expire at least 15 days after an Interest Payment Date. As a condition to the issuance of an Alternate Letter of Credit, the Trustee must request and receive an opinion of nationally recognized bond counsel stating that the issuance of the Alternate Letter of Credit in accordance with the provisions of the Indenture will not adversely affect the exclusion from gross income of the interest on the Bonds for federal income tax purposes and written confirmation from the Rating Service, if so rated, that the proposed substitution of the Alternate Letter of Credit will not cause a withdrawal or reduction of the then current rating on the Bonds. If at the time of issuance of an Alternate Letter of Credit the Bonds are not rated, then the issuer of the Alternate Letter of Credit must have unsecured, uninsured and unguaranteed long-term debt rated by a Rating Service in one of its three highest rating categories.

THE BORROWER IS NOT OBLIGATED TO MAINTAIN THE LETTER OF CREDIT OR AN ALTERNATE LETTER OF CREDIT AFTER SEPTEMBER 16, 2012. HOWEVER, ALL BONDS WILL BE SUBJECT TO MANDATORY PURCHASE ON THE INTEREST PAYMENT DATE NEXT PRECEDING THE EXPIRATION DATE OF THE LETTER OF CREDIT, AS THAT DATE MAY BE EXTENDED, SUBJECT TO THE HOLDER'S ELECTION TO RETAIN THE BONDS AT THE TIME OF THAT EXPIRATION.

## THE LOAN AGREEMENT

### **The Loan and Loan Payments**

Under the Loan Agreement, the Issuer agrees to issue the Bonds and to loan the proceeds thereof to the Borrower. The Borrower agree to repay the loan by making the Loan Payments on a quarterly basis so that there is available to the Trustee on each Interest Payment Date an aggregate of Loan Payments equal to the amount payable as principal, premium, if any, or interest on the Bonds due on such Interest Payment Date. The Borrower's obligation to make such Loan Payments will be evidenced by the Note and will be absolute and unconditional; provided that drawings by the Trustee under the Letter of Credit for the payment of the corresponding payment of Bond Service Charges on the respective Bonds will be treated as a credit against such obligation. All Loan Payments by the Borrower will be paid to the Trustee for the account of the Issuer in accordance with the Note.

The Borrower have agreed to pay to the Issuer, as Additional Payments under the Loan Agreement, any and all costs and expenses incurred or to be paid by the Issuer in connection with the issuance and delivery of the Bonds and any Additional Bonds, or otherwise related to actions taken by the Issuer under the Loan Agreement or the Indenture. The Borrower will pay to the Trustee, the Registrar, any Paying Agent or Authenticating Agent, the Tender Agent, and the Remarketing Agent, their fees, charges and expenses for acting as such under the Indenture.

The Borrower also have agreed to pay to the Tender Agent in immediately available funds not later than 3:00 p.m. Louisville, Kentucky time, on each date on which the Bonds are purchased pursuant to an optional or mandatory tender for purchase under the Indenture, an amount equal to the amount to be paid by the Tender Agent on behalf of the Borrower for the purchase of Bonds on that date to the extent the Tender Agent has not been provided with funds to make such payment from the proceeds of a remarketing or a draw on the Letter of Credit.

### **Absolute Obligation to Pay Loan Payments and Additional Payments**

The obligations of the Borrower to pay Loan Payments and Additional Payments and to perform and observe the other agreements on their part contained in the Loan Agreement are absolute and unconditional.

### **Special Covenants**

The Borrower represent in the Loan Agreement that they have taken or caused to be taken, and agree that they will take or cause to be taken, all actions that may be required of them for the interest on the Bonds to be and remain excluded from the gross income of the Holders for federal income tax purposes, and that they will not take, or permit to be taken on their behalf, any actions which would adversely affect such exclusion.

The Borrower also agree to indemnify the Issuer and the Trustee against certain liabilities, claims, costs and expenses, including actions taken under the Loan Agreement and related documents.

The Borrower are authorized to lease, sell or grant the right to occupy and use the Project, in whole or in part, to others if the Borrower remain obligated under the Loan Agreement and meets certain other conditions.

### **Events of Default**

The Loan Agreement provides that each of the following will be an "Event of Default":

- (a) Failure by the Borrower to pay any Loan Payment on or prior to the date on which it is due;
- (b) Failure by the Borrower to deliver to the Trustee moneys needed to redeem or purchase any outstanding Bonds or additional Bonds as provided in the Loan Agreement;

(c) Failure by the Borrower to observe and perform any other agreement, term or condition contained in the Loan Agreement (other than with respect to the Borrower's agreement not to take or omit to be taken any action that would adversely affect the tax-exempt status of interest on the Bonds), and that failure continues for a period of 30 days after notice of that failure is given to the Borrower by the Issuer or the Trustee, or for such longer period as the Issuer and the Trustee may agree to in writing; provided, that if the failure is other than the payment of money and is of such nature that it cannot be corrected within the applicable period, that failure will not constitute an Event of Default under the Loan Agreement so long as the Borrower institute curative action within the applicable period and diligently pursues that action to completion;

(d) The Borrower shall: (i) admit in writing the Borrower's inability to pay the Borrower's debts generally as they become due; (ii) have an order for relief entered in any case commenced by or against the Borrower under the federal bankruptcy laws, as now or hereafter in effect; (iii) commence a proceeding under any other federal or state bankruptcy, insolvency, or similar law, or have such a proceeding commenced against the Borrower and either have an order of insolvency entered against the Borrower or have the proceeding remain undismissed and unstayed for 90 days; (iv) make an assignment for the benefit of creditors; (v) have a receiver or trustee appointed for the Borrower or for the whole or any substantial part of the Borrower's property;

(e) The occurrence of an Event of Default under the Indenture (see "THE INDENTURE - Events of Default").

If by reason of certain events reasonably beyond their control, the Borrower are unable to perform or observe any agreement, term or condition under the Loan Agreement that would give rise to an event of default under paragraph (c) described above, the Borrower will not be deemed in default during the continuance of such inability.

Any declaration of an Event of Default described under paragraph (d) above, and the exercise of remedies upon any such declaration, will be subject to any applicable limitations of federal bankruptcy law affecting or precluding that declaration or exercise during the pendency of or immediately following any bankruptcy, liquidation or reorganization proceedings.

## **Remedies**

If any Event of Default under the Loan Agreement occurs and is continuing, the Trustee shall, if and only if the payment of the Bonds is accelerated pursuant to the Indenture, declare all Loan Payments to be immediately due and payable. In addition, the Issuer, the Bank and the Trustee may have access to, inspect, examine and make copies of the books, records, accounts and financial data of the Borrower pertaining to the Project and may pursue any remedies at law or in equity to collect all amounts then due and thereafter to become due under the Loan Agreement, the Letter of Credit or the Note, as applicable, or to enforce and the performance and observance of any other obligation or agreement of the Borrower under those instruments.

Notwithstanding the above-described remedies, neither the Issuer nor the Trustee is obligated to take any action that in its opinion will, or might, cause it to expend time or money or otherwise incur liability unless and until a satisfactory indemnity bond has been furnished to the Issuer at no cost or expense to the Issuer. Any amounts collected as Loan Payments or applicable to Loan Payments and any other amounts that would be applicable to the payment of Bond Service Charges on the Bonds collected pursuant to action taken under the Loan will be paid into the Bond Fund and applied in accordance with the provisions of the Indenture (see "THE INDENTURE - The Bond Fund") or, if the outstanding Bonds and other amounts required to be paid under the Indenture have been paid and discharged in accordance with the provisions of the Indenture, will be paid to the Borrower or the Bank, as provided in the Indenture.

The remedies provided under the Loan Agreement are also subject to the further limitation that the rescission by the Trustee of its declaration that all of the Bonds are immediately due and payable also will constitute an annulment of any corresponding declaration made pursuant to the Loan Agreement and a waiver and rescission of the consequences of that declaration and of the Event of Default with respect to which that declaration has been made.

#### **Amendments to the Loan Agreement**

The Indenture provides that the Loan Agreement may be amended by the Issuer and the Trustee with the written consent of the Bank, but without the consent of or notice to the Holders of the Bonds, only as may be required (i) by the provisions of the Loan Agreement and the Indenture, (ii) in connection with the issuance of Additional Bonds under the Indenture, (iii) for the purpose of curing any ambiguity, inconsistency or formal defect or omission, (iv) in connection with an amendment or to effect any purpose for which there could be an amendment of the Indenture without the consent of the Holders of the Bonds, or (v) in connection with any other change therein that, in the judgment of the Trustee, is not to the prejudice of the Trustee or the Holders of the Bonds.

The Loan Agreement may be amended, but only with the consent of all Holders and the Bank, to change the amount or time as of which Loan Payments are required to be paid. Any amendments to the Loan Agreement, other than those described above, may be made only with the prior written consent of the Bank and the Holders of not less than a majority in aggregate principal amount of the Bonds then outstanding.

### **THE INDENTURE**

#### **Assignment and Grant of Security Interest**

The Indenture provides for the assignment by the Issuer to the Trustee for the benefit of the Holders, except as limited in the Indenture, all of the right, title and interest of the Issuer in and to the Loan Agreement (except for Unassigned Issuer's Rights) and the Bond Fund or any other fund established under the Indenture except the Rebate Fund, and grants to the Trustee a security interest in the Project and all other monies or obligations deposited or required to be deposited with the Trustee and subject to the lien of the Indenture except the Bond Fund and the proceeds of the Letter of Credit.

#### **The Bond Fund**

The Indenture provides for the creation of a Bond Fund that is to be maintained by the Trustee. Deposits into the Bond Fund will consist of (a) Revenues; (b) moneys drawn by the Trustee under the Letter of Credit; and (c) any other amounts which may be applied to the payments of Bond Service Charges. All amounts drawn under the Letter of Credit for any purpose are required to be deposited directly into an account in the Bond Fund designated the "Letter of Credit Account" and all amounts deposited to pay premium on the Bonds are required to be deposited directly into an account in the Bond Fund designated the "Redemption Premium Account." All amounts deposited to pay and discharge the Bonds are required to be deposited into an account in the Bond Fund designated the "Defeasance Account."

Moneys in the Bond Fund are to be used to pay Bond Service Charges with respect to the Bonds as they become due, whether at stated maturity, by redemption or on acceleration, in the following order:

- FIRST: Amounts drawn by the Trustee under the Letter of Credit or an Alternate Letter of Credit and deposited directly into a separate account in the Bond Fund;
- SECOND: Any Eligible Funds on deposit on the Bond Fund; and
- THIRD: Any other amounts available in the Bond Fund.



The Issuer has authorized and directed the Trustee to draw on the Letter of Credit pursuant to its terms, in the amounts and at the times necessary to pay Bond Service Charges on the Bonds and the purchase price of the Bonds to the extent proceeds from the remarketing of such Bonds are not available for such purpose.

### **The Rebate Fund**

The Trustee may deposit into the Rebate Fund amounts required under the Indenture to make rebate payments to the United States government of certain earnings on investments of the proceeds of the Bonds. The obligation of the Trustee to make such payments shall remain in effect and be binding upon the Trustee notwithstanding the release and discharge of the Indenture. All amounts credited to the Rebate Fund will be free and clear of any lien created by the Indenture.

### **Investment of Funds**

Moneys held in any fund will be invested and reinvested by the Trustee in "Eligible Investments" at the direction of the Borrower except that the moneys in the Letter of Credit Account will be invested by the Trustee only in obligations listed in (i) and moneys deposited in the Redemption Premium Account or the proceeds received from the remarketing of Bonds will be invested by the Trustee only in obligations listed in clauses (i), (ii) or (iii) below, which mature at the times and in the amounts necessary to make payments of Bond Service Charges on, or the purchase price of, Bonds when due or will be held uninvested and monies in the Defeasance Account of the Bond Fund shall be invested only in obligations of the United States or its agencies as provided in the Indenture.

"Eligible Investments" means

- a. Government Obligations.
- b. Federal Home Loan Mortgage Corporation (FHLMC) and Farm Credit Banks (Federal land Banks, Federal Intermediate Credit Banks and Banks for Cooperatives) participation certificates and senior debt obligations which bear interest at a fixed rate and are fully amortizing.
- c. Federal National Mortgage Association's (FNMA) mortgaged backed securities and senior debt obligations which bear interest at a fixed rate and are fully amortizing.
- d. Student Loan Marketing Association (Sallie Mae) letter of credit backed issues and senior debt obligations.
- e. Federal funds, certificates of deposits, time deposits and banker's acceptances (having original maturities of not more than 365 days) of any bank the unsecured, uninsured and unguaranteed debt obligations of which (or, in the case of a bank subsidiary in a bank holding company, debt obligations of the bank holding company) have been rated "AA" or "A-1" or its equivalent by either rating service at the time of purchase.
- f. Commercial paper (having original maturities of not more than 270 days) rated at the time of purchase not less than "AA" by Moody's or A-1 by Standard & Poors.
- g. Repurchase agreements with any institutions the unsecured, uninsured and unguaranteed debt obligations of which (or, in the case of a bank subsidiary in a bank holding company, debt obligations of the bank holding company) are rated "AA" or its equivalent by either rating service at the time of purchase.
- h. Tax-Exempt obligations of any state of the United States of America or any political subdivision or other instrumentality of any such state and such obligations are rated in either of the two highest rating categories (i.e., "AA" or higher) of either rating service and are not "specified private activity bonds" as defined in Section 57(a)(5)(C) of the Code at the time of purchase.

i. Tax-exempt money market funds which are “qualified regulated investment companies” within the meaning of IRS Notice 87-22, dated October 25, 1987, and which meet the other requirements of IRS Notice 87-22 and any subsequent regulations necessary to exempt investments in such funds from the definition of “investment property” under Section 148 of the Code whose assets are solely invested in obligations rated in either of the two highest rating categories by either rating service at the time of purchase.

j. Money market funds the assets of which are obligations of or guaranteed by the United States of America, or repurchase agreements secured by such obligations, and which funds are rated “Am” or “Am-G” or higher by S&P at the time of purchase.

k. Such other investments as may be approved by the Letter of Credit Bank.

Except to the extent set forth in an opinion of nationally recognized bond counsel, investments or deposits in certificates of deposit or pursuant to investment contracts shall not be made without compliance, at or prior to such investment or deposit, with the requirements of section 148 of the Code, or with any successor provisions thereto.

An investment made from moneys credited to the Bond Fund or the Rebate Fund will constitute part of that respective Fund, and each such Fund will be credited with all proceeds of sale and income from such investment. Further, any Eligible Investments may be purchased from or sold to the Trustee, the Registrar, an authenticating agent or a paying agent, or any bank, trust company or savings and loan association affiliated with any of the foregoing.

#### **Additional Bonds**

The Indenture provides that the Issuer, at the Borrower’ request and upon compliance with the requirements of the Indenture, may issue Additional Bonds from time to time for any purpose permitted by the Act. Those Additional Bonds will be on a parity with the Bonds and other Additional Bonds issued and outstanding as to the assignment to the Trustee of the Issuer’s right, title and interest in the Loan Agreement (except for certain Issuer rights not being assigned), the Revenues and the Bond Fund, and the moneys and investments therein (but not the Letter of Credit Account).

#### **Events of Default**

The Indenture provides that any of the following events constitute an “Event of Default”:

- (a) Non-payment of any interest on any Bond when and as such interest becomes due and payable;
- (b) Non-payment of the principal of or any premium on any Bond when and as such principal or premium shall become due and payable, whether at stated maturity, by redemption, by acceleration or otherwise;
- (c) Failure to pay amounts due to the Holder of any Bond who has delivered such Bond to the Tender Agent for purchase pursuant to this Indenture when and as such payment has become due and payable;
- (d) Failure by the Issuer to observe or perform any other covenant, agreement or obligation on its part to be observed or performed contained in this Indenture or in the Bonds, which failure shall have continued for a period of 60 days after written notice, by registered or certified mail, to the Issuer and the Corporation specifying the failure and requiring that it be remedied, which notice may be given by the Trustee in its discretion and shall be given by the Trustee at the written request of the Holders of not less than 25 percent in aggregate principal amount of Bonds then outstanding;
- (e) The occurrence and continuance of an Event of Default as defined in Section 7.1 of the Agreement;

(f) Receipt by the Trustee of a written notice from the Letter of Credit Bank that an event of default has occurred under the Reimbursement Agreement;

(g) Failure of the Letter of Credit Bank to honor any proper drawing under the Letter of Credit;

(h) A decree or order of a court or agency or supervisory authority, having jurisdiction in the premises for the appointment of a conservator or receiver or liquidator in any insolvency, readjustment of debt, marshalling of assets and liabilities or similar proceeding, or for the winding-up or liquidation of its affairs, shall have been entered against the Letter of Credit Bank or the Letter of Credit Bank shall have consented to the appointment of a conservator or receiver or liquidator in any insolvency, readjustment of debt, marshalling of assets and liabilities or similar proceedings of or relating to the Letter of Credit Bank or of or relating to all or substantially all of its property; or

(i) Receipt by the Trustee on or prior to the fifth day following the day a drawing for interest has been made on the Letter of Credit of written notice from the Letter of Credit Bank that the amount of such drawing has not been reinstated in accordance with the Letter of Credit.

### **Acceleration and Other Rights and Remedies**

If an Event of Default under the Indenture occurs as described under paragraphs (d) or (e) above, the Trustee shall, upon the written direction of the Bank, declare the principal of all Bonds then outstanding (if not then due and payable), together with interest accrued thereon, to be due and payable immediately. Upon the occurrence of an Event of Default described under paragraphs (a), (b), (c), (f), (g), (h) or (i) above, the Trustee, without the consent of the Bank, is required to declare the principal of all Bonds then outstanding (if not then due and payable), together with interest accrued thereon, to be due and payable immediately; provided that upon the occurrence of an Event of Default described under paragraph (h) above, the Trustee shall delay such declaration for 60 days and waive such declaration if an Alternate Letter of Credit are provided within such 60 day period. Pursuant to such declaration, interest on the Bonds will accrue to the date determined by the Trustee for the tender of payment to the Holders.

The provisions of the preceding paragraph are subject, however, to the condition that if, at any time after declaration of acceleration and prior to the entry of a judgment in a court for enforcement under the Indenture (after an opportunity for hearing by the Issuer and the Borrower),

(a) all sums payable under the Indenture (except the principal of and interest on Bonds that have not reached their stated maturity dates, but which are due and payable solely by reason of that declaration of acceleration), plus interest to the extent permitted by law on any overdue installments of interest at the rate borne by the Bonds in respect of which the default occurred, shall have been duly paid or provision shall have been duly made therefor by deposit with the Trustee or any paying agents, and

(b) all existing Events of Default under the Indenture have been cured,

then, and in every case, the Trustee is required to waive the particular Event of Default and its consequences and shall rescind and annul the declaration of acceleration; provided that if the Letter of Credit was drawn upon as a result of such declaration, the Trustee shall not waive the Event of Default unless the Trustee has received written notice that the amount of the Letter of Credit has been fully reinstated.

In addition, upon the occurrence and continuance of an Event of Default under the Indenture and with or without an acceleration as described above, the Trustee may pursue any available remedy to enforce the payment of Bond Service Charges on the Bonds or the observance and performance of any other covenant, agreement or obligation under the Indenture, the Loan Agreement the Letter of Credit or any other instrument providing security, directly or indirectly, for the Bonds. If requested to do so by the Holders of at least 25% in aggregate principal amount of the

Bonds outstanding and if indemnified as provided in the Indenture, the Trustee is required to exercise such of the rights and powers conferred upon it under the Indenture as the Trustee.

### **Right of Bondholders to Direct Proceedings**

The Holders of a majority in aggregate principal amount of the Bonds then outstanding will have the right at any time to direct, by an instrument or document or instruments or documents in writing executed and delivered to the Trustee, the method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of the Indenture or any other proceedings under the Indenture; provided, that (i) any such direction is in accordance with the provisions of law and the Indenture, (ii) the Trustee is indemnified as provided under the Indenture, and (iii) the Trustee may take any other action that it deems to be proper and that is not inconsistent with the direction.

### **Application of Moneys**

After payment of any costs, expenses, liabilities and advances paid, incurred or made by the Trustee in the collection of moneys pursuant to any right given or action taken under the Indenture, the Loan Agreement, or the Letter of Credit, and after all required deposits are made into the Rebate Fund as required by the Indenture, all moneys received by the Trustee shall be applied as follows, subject to any provision made for payments for redemption or nonpresentment of Bonds and payments to the Bank or the Borrower of any amounts remaining in the Bond Fund after the Bonds are deemed paid and discharged and all other amounts required to be paid under the Indenture and the Loan Agreement are paid, and provided that all moneys received by the Trustee from a draw under the Letter of Credit shall be applied only to the payment of Bond Service Charges on the Bonds and all monies received pursuant to a remarketing of the Bonds shall only be used to purchase tendered Bonds or to reimburse the Bank for a draw on the Letter of Credit for a purchase of Bonds:

(a) Unless the principal of all the Bonds shall have become, or shall have been declared to be, due and payable, all of those money shall be deposited in the Bond Fund and shall be applied:

FIRST: To the payment to the Holders entitled thereto of all installments of interest then due on the Bonds, in the order of the dates of maturity of the installments of that interest, beginning with the earliest date of maturity and, if the amount available is not sufficient to pay in full any particular installment, then to the payment thereof ratably, according to the amounts due on that installment, to the Holders entitled thereto, without any discrimination or privilege, except as to any difference in the respective rates of interest specified in the Bonds; and

SECOND: To the payment to the Holders entitled thereto of the unpaid principal of any of the Bonds which shall have become due (other than Bonds previously called for redemption for the payment of which moneys are held pursuant to the provisions of the Indenture), whether at stated maturity or by redemption, in the order of their due dates, beginning with the earliest due date, with interest on those Bonds from the respective dates upon which they became due at the rates specified in those Bonds, and if the amount available is not sufficient to pay in full all Bonds due on any particular date, together with that interest, then to the payment thereof ratably, according to the amounts of principal due on that date, to the Holders entitled thereto without any discrimination or privilege, except as to any difference in the respective rates of interest specified in the Bonds.

(b) If the principal of all of the Bonds shall have become due or shall have been declared to be due and payable pursuant to the Indenture, all of those moneys shall be deposited into the Bond Fund and shall be applied to the payment of the principal and interest then due and unpaid upon the Bonds, without preference or priority of principal over interest, of interest over principal, of any installment of interest over any

other installment of interest, or of any Bond over any other Bond, ratably, according to the amounts due respectively for principal and interest, to the Holders of Bonds entitled thereto, without any discrimination or privilege, except as to any difference in the respective rates of interest specified in the Bonds.

(c) If the principal of all of the Bonds shall have been declared to be due and payable pursuant to the Indenture and if that declaration thereafter shall have been rescinded and annulled subject to the provisions of paragraph (b) above in the event that the principal of all of the Bonds shall become due and payable later, the moneys shall be deposited in the Bond Fund and shall be applied in accordance with the provisions of the Indenture.

(d) Whenever moneys are to be applied as described above, those moneys shall be applied at such times, and from time to time, as the Trustee shall determine, having due regard to the amount of moneys available for application and the likelihood of additional moneys becoming available for application in the future. Whenever the Trustee directs the application of those moneys, it is required to fix the date upon which the application is to be made, and upon that date, interest shall cease to accrue on the amounts of principal, if any, to be paid on that date, provided the moneys are available therefor. In the event of an acceleration of the Bonds under the Indenture, the Trustee is required to fix the date for interest to cease to accrue. The Trustee shall give notice of the deposit with it of any moneys and of the fixing of that date for the establishment of, and for giving notice with respect to, a special record date for the payment of overdue interest on the Bonds. The Trustee is not required to make payment of principal of and any premium on a Bond to the Holder thereof, until the Bond is presented to the Trustee for appropriate endorsement or for cancellation if it is paid in full.

### **Rights and Remedies of Bondholders**

The Holder of any Bond will not have the right to institute any suit, action or proceeding for the enforcement of the Indenture, for the execution of any trust under the Indenture or for the exercise of any other remedy under the Indenture, unless (i) an Event of Default under the Indenture occurs and is continuing, of which the Trustee has been notified or is deemed to have notice, (ii) the Holders of not less than 25% in aggregate principal amount of the Bonds then outstanding have made written request to the Trustee and have afforded the Trustee reasonable opportunity to proceed to exercise the remedies, rights and powers granted in the Indenture or to institute suit, action or proceeding in its own name and have offered to the Trustee indemnity as provided in the Indenture, and (iii) the Trustee thereafter fails or refuses to exercise its remedies, rights and powers granted under the Indenture or to institute such suit, action or proceeding in its own name.

Any such suit, action or proceeding instituted, had and maintained as described above, will be for the benefit of the Holders of all the Bonds then outstanding.

### **Waivers of Events of Default**

The Trustee, but only with the express written consent of the Bank, may waive any Event of Default described under paragraphs (d), (e) or (f) above and its consequences and may rescind and annul any declaration of maturity of principal of the Bonds and the Trustee shall do so upon the written request of the Bank. Notwithstanding the foregoing, prior to waiving any Event of Default described in paragraphs (f) or (i) under "Events of Default" above, the Trustee shall have received written confirmation from the Bank that the Letter of Credit has been reinstated to an amount not less than 100% of the outstanding principal of plus 110 days interest (195 days interest if the Other Rate Mode on the Bonds is six months or longer) on the Bonds computed at the maximum Rate.

There shall not be so waived, however, any Event of Default described in paragraphs (a), (b), (c), (g) or (h) above or any declaration of acceleration in connection therewith rescinded or annulled except with the written consent of the Holders of all Bonds then outstanding and, except with respect to an Event of Default described in paragraph (g) or (h) under "Events of Default" above, of the Bank. In the case of the waiver or rescission and annulment, or in case any

suit, action or proceedings taken by the Trustee on account of any Event of Default shall have been discontinued, abandoned or determined adversely to it; the Issuer, the Trustee, the Bank and the Holders shall be restored to their former positions and rights hereunder; respectively. No waiver or rescission shall extend to any subsequent or other Event of Default or impair any right consequent thereon.

### **Supplemental Indentures**

The Issuer and the Trustee may enter into indentures supplemental to the Indenture, without the consent of or notice to any of the Holders of the Bonds, for any one or more of the following purposes:

- (a) to cure any ambiguity, inconsistency or formal defect or omission in the Indenture;
- (b) to grant to or confer upon the Trustee for the benefit of the Holders any additional rights, remedies, powers or authority that may lawfully be granted to or conferred upon the Holders or the Trustee;
- (c) to assign additional revenues under the Indenture;
- (d) to accept additional security and instruments and documents of further assurance with respect to the Project;
- (e) to add to the covenants, agreements and obligations of the Issuer under this Indenture, other covenants, agreements and obligations to be observed for the protection of the Holders, or to surrender or limit any right, power or authority reserved to or conferred upon the Issuer in this Indenture, including without limitation, the limitation of rights of redemption so that in certain instances Bonds of different series will be redeemed in some prescribed relationship to one another for the protection of the Holders of a particular series of Bonds;
- (f) to evidence any succession to the Issuer and the assumption by its successor of the covenants, agreements and obligations of the Issuer under the Indenture, the Loan Agreement and the Bonds;
- (g) to permit the exchange of Bonds, at the option of the Holder of Bonds thereof, for coupon Bonds of the same series payable to bearer, in an aggregate principal amount not exceeding the unmatured and unredeemed principal amount of the predecessor bonds, bearing interest at the same rate or rates and maturing on the same date or dates, with coupons attached representing all unpaid interest due or to become due thereon if, in the opinion of nationally recognized bond counsel selected by the Trustee, that exchange would not result in the interest on any of the Bonds outstanding being included in the gross income of the Holders for federal income tax purposes;
- (h) to permit the Trustee to comply with any obligations imposed upon it by law;
- (i) to specify further the duties and responsibilities of, and to define further the relationship among, the Trustee, the Registrar and any authenticating agents or paying agents;
- (j) to achieve compliance of the Indenture with any applicable federal or state securities or tax law;
- (k) to evidence the appointment of a new Remarketing Agent;
- (l) to make necessary or advisable amendments or additions in connection with issuance of Additional Bonds in accordance with the Indenture as do not adversely affect the Holders of outstanding Bonds;

(m) to make any amendments required to secure a rating on the Bonds from a Rating Service equal to the rating of the Letter of Credit Bank's (or the parent company of such Letter of Credit Bank) unsecured indebtedness; or

(n) to accept a Supplemental Credit Facility.

Exclusive of supplemental indentures for the purposes above summarized, the consent of the Holders of not less than a majority in aggregate principal amount of the Bonds then outstanding will be required to approve any indenture supplementing the Indenture; provided, that no supplemental indenture may permit (i) without the consent of the Holder of each Bond so effected, an extension of the maturity of the principal of or the interest on any Bond, a reduction in the principal amount of any Bond or the rate of interest or premium on any Bond, or a decrease in any amounts to be paid, or an extension of any times for payments under the Letter of Credit, or a change of the timing of the draws under the Letter of Credit or (ii) without the consent of the Holders of all Bonds then outstanding, the creation of a privilege or priority of any Bond over any other Bond, or a reduction in the aggregate principal amount of the bonds required for consent to such supplemental indenture.

Notwithstanding the foregoing, no supplemental indenture that affects any rights of the Borrower or the Bank will become effective unless and until the Borrower or the Bank consent in writing to the execution and delivery of that supplemental indenture.

#### **Defeasance**

When all Bond Service Charges on the Bonds that are due, or to become due, have been paid, or provision has been made for such payment, as provided below, and provision has been made for payment of all sums due under the Indenture and the Loan Agreement, then the Indenture (except for certain provisions thereof which need to remain operative, such as those relating to the holding of funds for the benefit of particular Holders or for the Borrower) shall cease, terminate and become null and void, and the covenants, agreements and obligations of the Issuer thereunder shall be discharged and satisfied. Thereupon, the Trustee shall release the Indenture and Note, and return the Letter of Credit to the Bank and return property subject to the lien of the Indenture to the parties entitled thereto and execute and deliver to the Issuer such instruments or documents in writing as shall be required to evidence that release and discharge, or as may be reasonably requested by the Issuer.

All or any part of the Bonds shall be deemed to have been paid and discharged within the meaning of the Indenture if

(a) the Trustee, as paying agent, and any other paying agent shall hold, in trust for and irrevocably committed thereto, sufficient moneys which are eligible Funds or proceeds of drawings under the Letter of Credit used to make such payment, or other moneys if accompanied by an opinion of Bankruptcy counsel in a form acceptable to the Trustee and the Rating Service (if any) for the Bonds; or

(b) the Trustee shall have received, in trust for and irrevocably committed thereto, (i) noncallable direct obligations of the United States of America, (ii) noncallable obligations unconditionally guaranteed by the United States of America or (iii) noncallable securities which represent an interest in direct obligations of the United States of America in an amount sufficient to pay when due the face amount of such securities and interest thereon, in each case purchased with funds which satisfy the requirements of Section 5.03 of the Indenture that are certified by an independent public accounting firm of national reputation to be of such maturities or redemption dates and interest payment dates, and to bear such interest as will, without further investment or reinvestment of either the principal amount thereof or the interest earnings therefrom, be sufficient together with moneys referred to in (a) above, for the payment of all Bond Service Charges on those Bonds, at their maturity or redemption dates, as the case may be, or if a default in such payment shall have occurred on such date, then to the date of the tender of such payment; provided that if any of such Bonds are to

be redeemed prior to the maturity thereof, notice of such redemption shall have been duly given or irrevocable provision satisfactory to the Trustee shall have been duly made for the giving of such notice.

### **The Trustee**

The Trustee is a national banking association organized and existing under the laws of the United States of America, and is duly authorized to exercise corporate trust powers in the Commonwealth of Kentucky. The Trustee, prior to the occurrence of an Event of Default under the Indenture of which it has been notified or is deemed to have notice, and after the cure or waiver of any event that, with the passage of time or giving of notice, or both, will become an Event of Default under the Indenture (hereinafter a "default"), or any Event of Default that may have occurred, undertakes to perform only such duties and obligations that are specifically set forth in the Indenture. In case a default or an Event of Default under the Indenture has occurred and is continuing, the Trustee will exercise the rights and powers vested in it by the Indenture as a prudent man would exercise them in the conduct of its own affairs. The Indenture provides that the Trustee, in the absence of bad faith on its part, will be entitled to rely conclusively as to the truth of statements and the correctness of opinions expressed in certificates and opinions furnished to the Trustee that conform with the requirements of the Indenture; but in the case of any such certificates or opinions that are specifically required by the Indenture, the Trustee will be under a duty to examine the same to determine whether they conform to the requirements of the Indenture. In addition, the Indenture provides that the Trustee will be liable for its own negligence or willful misconduct.

In the event that the Trustee designates in writing that an individual or additional institution perform specifically enumerated duties of the Trustee as a co-trustee, as shall be necessary to perform such enumerated duties, the appointee shall have such trust, property, remedy, power, right, duty, obligation, discretion, privilege, claim, demand, course of action, immunity, estate, title, interest and lien expressed or intended by the Indenture to be exercised by the Trustee.

## **THE REIMBURSEMENT AGREEMENT**

### **Generally**

The Reimbursement Agreement is entered into to secure the repayment to the Bank by the Borrower of amounts drawn under the Letter of Credit as well as other amounts. The occurrence of an Event of Default under the Reimbursement Agreement may, at the Bank's option, result in the acceleration of the Bonds. **Because the Reimbursement Agreement contains references to security documents and financial covenants affecting the Borrower not summarized in this Official Statement, prospective investors will not be able to evaluate the likelihood of the occurrence of an Event of Default under the Reimbursement Agreement and the corresponding possibility that the principal payments on the Bonds would be accelerated.**

The Reimbursement Agreement provides that, except with respect to a drawing upon an unsuccessful remarketing of Bonds, on the date of any drawing under the Letter of Credit, all amounts that are drawn under the Letter of Credit, together with interest thereon, are immediately payable to the Bank by the Borrower.

The Borrower will also pay to the Bank an annual fee based on the amount from time to time available to be drawn under the Letter of Credit, together with additional drawing fees for each demand for payment under the Letter of Credit and for any transfer of the Letter of Credit. In addition, the Borrower, within 30 days following demand therefor, will pay to the Bank the amount, together with interest thereon, necessary to compensate the Bank for any additional costs related to the issuance or maintenance of letters of credit resulting from any change in any law or regulation or interpretation thereof by any court or administrative or governmental authority.



## **Covenants of Borrower**

The Borrower covenants in the Reimbursement Agreement, among other things, to obtain the Bank's written consent prior to entering into or consenting to any amendment to the Indenture and other documents relating to the Bonds.

The Borrower covenant in the Reimbursement Agreement to amortize the principal amount of the Bonds pursuant to a schedule set forth therein. The Borrower and the Bank are free to revise and deviate from such schedule by agreement and without the consent of the Bondholders.

## **Events of Default and Remedies**

Unless waived by the Bank, the occurrence of any of the following events constitutes an Event of Default under the Reimbursement Agreement:

- (a) The Borrower shall fail to pay when due any fees due under the Reimbursement Agreement or amounts due resulting from a transfer of or draw under the Letter of Credit (except amounts drawn with respect to an unsuccessful remarketing of Bonds) and any such failure continues for five business days after receipt of notice from the Bank by the Borrower;
- (b) The Borrower shall fail to pay when due any other amounts owing by the Borrower under the Reimbursement Agreement and such failure remains unremedied for five business days after receipt of notice from the Bank by the Borrower;
- (c) Any representation or warranty made by the Borrower in the Reimbursement Agreement, or any certificate, financial or other statement furnished by the Borrower pursuant thereto shall prove to have been incorrect in any material respect when made and would result in a material adverse change in the financial position of the Borrower, or the Borrower shall fail to perform or observe any term, covenant or agreement summarized under "Covenants of Borrower" above and such adverse change or failure to perform remains in effect for a period of 30 days after written notice thereof from the Bank;
- (d) The Borrower shall fail to perform or observe any other term, covenant or agreement on their part to be observed or performed under the Reimbursement Agreement or in documents securing the Borrower's obligation under the Reimbursement Agreement, and any such failure which can be remedied shall remain unremedied for 30 days after written notice thereof has been given to the Borrower by the Bank;
- (e) A final uninsured judgment in excess of \$50,000 shall be rendered against the Borrower, and such judgment shall remain unpaid or undischarged for a period of 90 consecutive days during which execution shall not be effectively stayed;
- (f) The occurrence of certain events of bankruptcy or insolvency with respect to the Borrower or the occurrence of a material adverse change in the financial condition of the Borrower;
- (g) The occurrence of an Event of Default under the Indenture, the Loan Agreement or any related documents or under any documents securing the Borrower's obligations under the Reimbursement Agreement, together with the giving of any notice required thereunder and the passage of any grace period; or
- (h) The abandonment or unreasonable delay of the construction of the Project for a period of thirty (30) days (for reasons other than those beyond the control of the Borrower or the general contractor for the Project).

Upon the occurrence of an Event of Default under the Reimbursement Agreement, as described above, the Bank may, among other remedies, by notice to the Borrower and the Trustee, declare all amounts payable by the Borrower under the Reimbursement Agreement to be forthwith due and payable, without demand, presentment, protest or further notice of any kind. Upon an Event of Default under the Reimbursement Agreement, the Bank, in its sole discretion, may notify the Trustee of an Event of Default, whereupon the Trustee is obligated to cause acceleration of the Bonds. See "The Indenture - Acceleration and Other Rights and Remedies."

## TAX MATTERS

In the opinion of Rubin & Hays, Louisville, Kentucky ("Bond Counsel"), under existing law, interest on the Bonds is excludable from gross income under Section 103 of the Internal Revenue Code of 1986, as amended and in effect on the date of delivery of the Bonds (the "Code"), for federal income tax purposes and is conditioned on continuing compliance by the Issuer and the Borrower with the Tax Covenants (as hereinafter defined). Failure to comply with the Tax Covenants could cause interest on the Bonds to lose the exclusion from gross income for federal income tax purposes retroactive to the date of issue. In the opinion of Bond Counsel, under existing law, interest on the Bonds is exempt from taxation in the Commonwealth of Kentucky.

The Code imposes certain requirements which must be met subsequent to the issuance of the Bonds as a condition to the exclusion from gross income of interest on the Bonds for federal income tax purposes. The Issuer and the Borrower will covenant not to take any action nor fail to take any action within their respective power and control with respect to the Bonds that would result in the loss of the exclusion from gross income for federal income tax purposes of interest on the Bonds pursuant to Section 103 of the Code (collectively, the "Tax Covenants"). The Indenture, the Loan Agreement and certain certificates and agreements to be delivered on the date of delivery of the Bonds establish procedures under which compliance with the requirements of the Code can be met.

The interest on the Bonds is not a specific preference item for purposes of the federal individual or corporate alternative minimum taxes. However, interest on the Bonds is included in adjusted current earnings in calculating corporate alternative minimum taxable income for purposes of the corporate alternative minimum tax.

Although Bond Counsel will render an opinion that interest on the Bonds is excludable from federal gross income and exempt from certain Commonwealth of Kentucky taxes, the accrual or receipt of interest on the Bonds may otherwise affect a Bondholder's federal or state tax liability. The nature and extent of these other tax consequences will depend upon the Bondholder's particular tax status and the Bondholder's other items of income or deductions. Taxpayers who may be affected by such other tax consequences include, without limitation, financial institutions, certain insurance companies, "S" corporations, certain foreign corporations, individual recipients of Social Security or railroad retirement benefits and taxpayers who may be deemed to have incurred (or continued) indebtedness to purchase or carry the Bonds. Bond Counsel expresses no opinion regarding any other such tax consequences. Prospective purchasers of the Bonds should consult their own tax advisors with regard to the other tax consequences of owning the Bonds, including whether any Bondholder that purchases Bonds in the secondary market at a price other than par may have potential sale and exchange consequences on a conversion of the Bonds from one Interest Rate Mode to another, even if the Bondholder elects to retain its Bonds upon any such conversion.

By the terms of the Indenture, the Loan Agreement and other relevant documents, the Interest Rate Mode for the Bonds may be changed and certain actions may be taken under the circumstances and subject to the terms and conditions set forth in such documents subject to receipt of an approving opinion of nationally recognized bond counsel. Bond Counsel expresses no opinion as to the effect upon any Bond or the excludability of the interest thereon for federal income taxation purposes resulting from any such change or action.

PROSPECTIVE PURCHASERS OF THE BONDS ARE ADVISED TO CONSULT THEIR OWN TAX ADVISORS PRIOR TO ANY PURCHASE OF SAID BONDS AS TO THE IMPACT OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED, UPON THEIR ACQUISITION, HOLDING OR DISPOSITION OF THE BONDS.

#### LEGAL MATTERS

Certain legal matters incident to the issuance of the Bonds and with regard to the tax status of the interest thereon are subject to the approving legal opinion of Rubin & Hays, Louisville, Kentucky, Bond Counsel. The proposed form of Bond Counsel Opinion is set forth in Appendix D hereto. Copies of that opinion, dated and speaking only as of the date of original delivery of the Bonds, will be delivered to the initial purchasers of the Bonds at the time of such original delivery. As Borrower's counsel, Blackburn Hundley & Domene, LLP will pass upon the validity and enforceability of all Borrower's actions and documents required in connection with the issuance of the Bonds. Certain legal matters will be passed upon for National City Bank of Kentucky, in its capacity as issuer of the Letter of Credit, and for NatCity Investments, Inc. in its capacity as Underwriter and Remarketing Agent, by Charles H. Spain, Jr., Esq., Cleveland, Ohio.

The various legal opinions to be delivered concurrently with the delivery of the Bonds will be qualified as to the enforceability of the various legal instruments by limitations imposed by the valid exercise of the constitutional powers of the Commonwealth of Kentucky, and the United States of America and bankruptcy, reorganization, insolvency or other similar laws affecting the rights of credits generally, and by general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

The various legal opinions to be delivered concurrently with the delivery of the Bonds express the professional judgment of the attorneys rendering the opinions on the legal issues explicitly addressed therein. By rendering the legal opinion, the opinion giver does not become an insurer or guarantor of an expression of professional judgment of the transaction opined upon, or of the future performance of parties to such transaction. Nor does the rendering of an opinion guarantee the outcome of any legal dispute that may arise out of the transaction.

The remedies available to the Holders upon a default under the Indenture or the Loan Agreement are in many respects dependent upon judicial actions which are often subject to discretion and delay. Under existing constitutional and statutory law and judicial decisions, including specifically Title 11 of the United States Code (the federal bankruptcy code), the remedies available in the Indenture and the Loan Agreement may not be readily available or may be limited.

APPENDIX A

NATIONAL CITY BANK

*The following information has been obtained from National City Bank. The Issuer, the Underwriter and the Borrower make no representations as to the accuracy or completeness of such information.*

**See Attached Report of Condition of  
National City Bank of Kentucky as of June 30, 2007**

## APPENDIX B

### RESERVED

## APPENDIX C

### DEFINITIONS

(Terms not defined herein are defined in the Indenture)

"Alternate Letter of Credit" means an irrevocable direct-pay Letter of Credit or other credit facility authorizing drawings thereunder by the Trustee, the terms of which shall be the same in all material respects, except as to expiration date, as the Letter of Credit and issued by a bank, a trust company or other financial institution or credit provider which satisfies the requirements of the Indenture.

"Bond Fund" means the Bond Fund for the Bonds created under the Indenture.

"Bonds" means the \$5,000,000 of Louisville/Jefferson County Metro Government, Kentucky Variable Rate Educational Facilities Revenue Bonds, Series 2007 (Louisville Presbyterian Theological Seminary Project).

"Business Day" or "business day" means any day other than a Saturday, Sunday or holiday or a day on which banks located in the city or cities in which the principal corporate trust office of the Trustee, the principal office of the Remarketing Agent or the principal office of the Bank are located are required or authorized to close or on which the New York Stock Exchange is closed.

"Code" means the Internal Revenue Code of 1986, as amended and as defined in the Indenture.

"Computation Period" means during any Other Rate Period, the six month period or integral multiple thereof elected pursuant to the Indenture during which the interest rate will not be subject to adjustment.

"Conversion Date" means the date which is the effective date of the Fixed Interest Rate.

"Defeasance Account" means the Defeasance Account for the Bonds created under the Indenture.

"Fixed Interest Rate" means the fixed non-floating annual interest rate on the Bonds described under "The Bonds - Interest Rates - Fixed Interest Rate" herein.

"Fixed Rate Period" means, as to the Bonds, the Fixed Rate Period as described under "The Bonds - Interest Rates - Fixed Interest Rate" herein.

"Interest Adjustment Date" means (i) in connection with any Weekly Rate Period, Wednesday of each calendar week commencing with the Interest Adjustment Date occurring during the calendar week next following the calendar week during which the Bonds are issued and delivered to the Original Purchaser or any other date on which an adjustment of the interest rate on the Bonds is required in the judgment of the Remarketing Agent to remarket the Bonds at par and (ii) in connection with any Other Rate Period, the twelfth Business Day prior to the beginning of the Computation Period.

"Letter of Credit Account" means the Letter of Credit Account for the Bonds created under the Indenture.

"Maximum Interest Rate" means prior to the Conversion Date (i) nine percent (9%) per annum for the Bonds and upon and after the Conversion Date, the Fixed Interest Rate.

"Other Rate Period" means, as to the Bonds, any interest rate period other than a Weekly Rate Period or a Fixed Rate Period as described under "The Bonds - Interest Rates - Other Rate Periods."

"Project" means the Project, as defined in the Loan Agreement.

"Rebate Fund" means the Rebate Fund created under the Indenture.

"Redemption Premium Account" means the Redemption Premium Account for the Bonds created under the Indenture.

"Revenues" means (a) the amounts required to be paid by the Borrower as payments of the Loan and Note, (b) all other moneys received or to be received by the Issuer or the Trustee in respect of repayment of the Loan, including, without limitation, all moneys and investments in the Bond Fund, and (c) all income and profit of the investment of the foregoing moneys. "Revenues" does not include any moneys or investments in the Rebate Fund.

"Unassigned Issuer's Rights" means all of the rights of the Issuer to receive Additional Payments, to be held harmless and indemnified, to be reimbursed for attorney's fees and expenses, and to give or withhold consent to amendments, changes, modifications, alterations and termination of the Loan Agreement, all as under the Loan Agreement.

"Weekly Rate Period" means, as to the Bonds, the period from and including the date of delivery of the Bonds to the original purchaser thereof to the date preceding the first day of an Other Rate Period or the Fixed Rate Period, whichever comes first, and any other Weekly Rate Period as described under "The Bonds - Interest Rates - Weekly Variable Rate."

"Weekly Interest Rate" means a floating weekly interest rate on the Bonds established and adjusted as described under "The Bonds - Interest Rates - Weekly Variable Rate."

APPENDIX D

FORM OF BOND COUNSEL OPINION